

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

KATHERINE M. CLEARY et al.,

Plaintiffs,

v.

AMERICAN AIRLINES, INC.,

Defendant.

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Civil Action No. 4:21-cv-00184-O

**ORDER GRANTING PRELIMINARY APPROVAL OF CLASS SETTLEMENT AND
DIRECTING DISSEMINATION OF CLASS NOTICE**

Before the Court is the Motion for Preliminary Approval of Class Settlement and Direction of Notice Pursuant to Fed. R. Civ. P. 23(e) (“Motion”) (ECF No. 250), filed by Plaintiffs and Certified Class Representatives William Cleary and Filippo Ferrigni (“Plaintiffs”). Plaintiffs and Defendant American Airlines, Inc. (“American”), collectively the “Parties,” have entered into a Class Settlement Agreement and Release (“Settlement Agreement”), dated October 14, 2022, and attached to this Order. Having thoroughly reviewed the Settlement Agreement, including the proposed forms of class notice and other exhibits thereto, the Motion, and the papers and arguments in connection therewith, and good cause appearing, the Court hereby **ORDERS** as follows:

1. Capitalized terms not otherwise defined herein have the meanings set forth in the Settlement Agreement.

2. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1332(d), and has personal jurisdiction over the Parties and the Settlement Class Members. Venue is proper in this District.

3. The Motion is **GRANTED**.

4. All other pending motions relating to pre-trial relief in this case (ECF Nos. 175, 178, 181, 192, 200, 203, 206, 209, 212, 229, 238, 241, and 244) are hereby found to be **MOOT**. The Clerk is directed to close all such motions.

5. The Court hereby preliminarily approves the Settlement Agreement and the terms embodied therein pursuant to Fed. R. Civ. P. 23(e)(1). The Court finds that it will likely approve the Settlement Agreement under Fed. R. Civ. P. 23(e)(2) and certify the Settlement Classes for purposes of judgment on the proposed Settlement. The Court preliminarily finds that the Settlement Agreement is fair, reasonable, and adequate as to the Settlement Class Members under the relevant considerations.

- a. The Court finds that Plaintiffs and Class Counsel have adequately represented, and will continue to adequately represent, the Settlement Classes.
- b. The Court further finds that the Settlement Agreement is the product of arms' length negotiations by the Parties with the assistance of an experienced mediator, Clay Cogman of Phillips ADS, and comes after significant litigation, including the certification of two litigation classes, completed discovery, rulings on summary judgment, and pre-trial motions and submissions.
- c. The proposed Settlement provides that American will refund 100% of all At-Issue Baggage Fees to Settlement Class Members who submit timely, valid claims. AA will pay no less than \$7.5 million in refunds to the Settlement Classes. If, six months after disbursement of all Refunds, any funds remain in the Settlement Account—*e.g.*, if some Class Members did not deposit or cash their checks—then: if American paid more than \$7.5 million into the Settlement Account, the remaining

funds in the Settlement Account, up to the amount American paid on top of \$7.5 million, will be returned to American; otherwise, the remaining funds in the Settlement Account will be distributed to Valid Claimants for whom Refund payments were effectuated if there are sufficient remaining funds to warrant such a distribution, or if not will be distributed *cy pres* to recipients agreed on by the Parties.

- d. The Court preliminarily finds that this Settlement relief is fair, reasonable and adequate taking into account, *inter alia*, the costs, risks, and delay of trial and appeal for all Parties, the legal issues presented in this Action, the interests of the proposed Settlement Classes, and the proposed method of distributing payments to the Settlement Classes (*i.e.*, direct payments by checks or electronic means).
- e. The Court preliminarily finds that the Settlement Agreement treats the Settlement Class Members equitably relative to each other, and that the proposed allocation of settlement funds to Settlement Class Members is reasonable and equitable. Under the terms of the Settlement Agreement, all Settlement Class Members are eligible to submit claims for 100% Refunds of their individual At-Issue Baggage Fees via a simple claim form.
- f. The Court will fully assess any request for attorneys' fees and litigation expenses after receiving a motion from Class Counsel supporting such request, which will be paid by American in addition to and separate from Refunds paid to claiming Settlement Class Members. At this stage, the Court finds that the plan to request fees and litigation expenses to be paid separate and apart from the Refunds paid to Settlement Class Members is reasonable and should not delay providing notice to

the Settlement Classes as approved herein.

6. The Court approves the “Settlement Classes,” which comprise the two classes certified by this Court’s September 2, 2021 Order (ECF No. 66), as modified by this Court’s July 22, 2022 Order resolving American’s summary judgment motion (ECF No. 190). The Credit Card Settlement Class shall consist of:

- a. American-branded Citibank or Barclay’s partner credit card holders entitling them to free checked baggage who were required to pay to check one or more such bags on domestic itineraries on or after February 24, 2017 for tickets purchased on or before April 8, 2020 (for the removal of doubt, this includes passengers on layovers on international itineraries who were charged a second time to check bags for domestic portions of those itineraries); and (b) either were sent Mail Notice or Email Notice of the Settlement or otherwise submit a Valid Claim related to At-Issue Baggage Fees covered by subpart (a) of this definition.

The Email Confirmation Settlement Class shall consist of:

- a. American ticket holders who both: (a) received email confirmation that in its body (and not merely in documents incorporated by reference) promised them one or more checked bags at no charge or for “USD \$0.00” and were thereafter required to pay to check one or more such bags on or after February 24, 2017 for tickets purchased on or before April 8, 2020; and (b) either were sent Mail Notice or Email Notice of the Settlement or otherwise submit a Valid Claim related to At-Issue Baggage Fees covered by subpart (a) of this definition.

7. The Court finds that the Settlement Classes satisfy the requirements of Fed. R. Civ. P. 23(a) and 23(b)(3) for the reasons stated in this Court’s order certifying substantially similar

litigation classes. ECF No. 66.

8. The Court previously recognized Plaintiffs as class representatives for the certified classes. ECF No. 66. Plaintiff William Cleary is the class representative representing the Email Confirmation Settlement Class, and Plaintiff Filippo Ferrigni is the class representative representing the Credit Card Settlement Class.

9. The Court previously appointed Class Counsel to represent the Classes as follows: Oren S. Giskan of Giskan Solotaroff & Anderson LLP, Joseph S. Tusa of Tusa P.C., and Roger N. Heller of Lieff Cabraser Heimann & Bernstein, LLP. ECF No. 151.

10. The Court hereby appoints A.B. Data Ltd. as Settlement Administrator and directs A.B. Data Ltd. to carry out all duties and responsibilities of the Settlement Administrator as specified in the Settlement Agreement and herein.

11. Following entry of this Preliminary Approval Order, American shall pay reasonable Notice and Administration Costs as set forth in and arising as a result of the Settlement Agreement by making such payments directly to the Settlement Administrator as those costs are incurred and payment becomes due. American will bear all Notice and Settlement Administration Costs, in addition to (*i.e.*, on top of) American's payment of the Settlement Account amount. To the extent the Settlement Administrator pays any Notice or Settlement Administration Costs reasonably necessary to effectuate the Settlement Notice Plan, American shall reimburse the Settlement Administrator for such costs. The Settlement Administrator shall maintain detailed records of the costs spent on the administration of the Settlement and shall provide those and other administration fees to American's counsel upon request.

Notice Program

12. Pursuant to Fed. R. Civ. P. 23(e)(1) and 23(c)(2)(B), the Court approves the

proposed Notice program set forth at Section VIII of the Settlement Agreement, including the form and content of the proposed forms of notice to the Settlement Classes attached as Exhibits B-F to the Settlement Agreement. The Notice Program includes: (i) Email Notice supplemented by reminder notices; (ii) Mail Notice supplemented by reminder notice; (iii) a case-specific Settlement Website that includes a downloadable Long Form Notice; (iv) Press Release; and (v) CAFA Notice.

13. The Court finds that the proposed Notice program meets the requirements of Due Process under the United States Constitution and Rule 23; and that such Notice program is the best notice practicable under the circumstances and shall constitute due and sufficient notice to all persons entitled thereto. The Court further finds that the proposed form and content of the forms of the Notice are adequate and will give the Settlement Class Members sufficient information to enable them to make informed decisions as to the Settlement Classes, the right to object or opt out, and the proposed Settlement and its terms. The Court finds that the Notice clearly and concisely states in plain, easily understood language, *inter alia*: (i) the nature of the Action; (ii) the definitions of the Settlement Classes; (iii) the class claims and issues; (iv) that a Settlement Class Member may enter an appearance through an attorney if the member so desires; (v) that the Court will exclude from the Settlement Classes any member who timely and validly requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on Settlement Class Members under Rule 23(c)(3).

14. The Court directs the Settlement Administrator and the Parties to implement the Notice program as set forth in the Settlement Agreement.

15. Settlement Class Notice List: By no later than fourteen (14) days following entry of this Preliminary Approval Order, American shall provide the Settlement Class Notice List and

accompanying information set forth in the Settlement Agreement to the Settlement Administrator.

16. Email Notice: By no later than thirty-five (35) Days after the Preliminary Approval Date, the Settlement Administrator will send the Email Notice (substantially in the form attached to the Settlement as Exhibit B) by email to all persons on the Settlement Class Notice List for whom an email address was provided by American or located by the Settlement Administrator.

17. Mail Notice: By no later than fifty (50) Days after the Preliminary Approval Date, the Settlement Administrator will mail the Mail Notice (substantially in the form attached to the Settlement as Exhibit D), including a removable Claim Form with prepaid postage (substantially in the form attached to the Settlement as Exhibit A), to all persons on the Settlement Class Notice List who have yet to submit a Claim Form and for whom a mailing address was provided by American or located by the Settlement Administrator.

18. For any Mail Notices returned as undeliverable, the Settlement Administrator shall update addresses based on any forwarding information received from the United States Postal Service or otherwise located by the Settlement Administrator. The Settlement Administrator shall promptly re-mail any Mail Notices that are returned as non-deliverable with a forwarding address to such forwarding address. For Mail Notices that are returned undeliverable without a forwarding address, the Settlement Administrator shall perform skip tracing and shall re-mail Mail Notices to any new addresses identified through such skip-tracing.

19. Reminder Email Notices: No later than sixty (60) Days after the Preliminary Approval Date, the Settlement Administrator will email the Reminder Email Notice (substantially in the form attached to the Settlement as Exhibit E) to all individuals who were sent the Email Notice and who have yet to submit a Claim Form as of that time. No later than one hundred (100) Days after the Preliminary Approval Date the Settlement Administrator will email a second

Reminder Email Notice to all individuals who were sent the Email Notice and who have yet to submit a Claim Form as of that time. The Parties, with input from the Settlement Administrator, will negotiate in good faith to determine whether a third Reminder Email Notice (to individuals who were sent the Email Notice and who have yet to submit a Claim Form as of one hundred fifteen (115) Days after the Preliminary Approval Date) is necessary.

20. Reminder Mail Notice: No later than one hundred (100) Days after the Preliminary Approval Date, the Settlement Administrator will mail the Reminder Mail Notice (substantially in the form attached to the Settlement as Exhibit F) to all individuals who were sent the Mail Notice and who have yet to submit a Claim Form as of that time.

21. Press Release: No earlier than the Notice Date and no later than seven (7) days after the Notice Date, Class Counsel shall issue a Press Release, substantially in the form attached to the Settlement as Exhibit G.

22. Settlement Website: The Settlement Administrator shall establish and maintain the Settlement Website, at the URL www.bagfeesettlement.com. The Settlement Website shall provide information and relevant documents related to this Settlement, including but not limited to, the following: applicable deadlines; a downloadable copy of the Long Form Notice in English and Spanish; the Email Notice in English and Spanish, the Mail Notice in English and Spanish; a Claim Form that may be submitted by U.S. Mail, a mechanism for Settlement Class Members to submit online Claim Forms electronically via the Settlement Website; orders of the Court pertaining to the Settlement; the Settlement Agreement; and contact address(es) for questions. Class Counsel and American's Counsel shall agree on all information and documents to be posted on the Settlement Website. The Claim Form shall be removed from the Settlement Website five (5) Days after the Claim Deadline has passed. The Settlement Website shall be operational no

later than the day before the first notices are disseminated or published, and will be deactivated at a time agreed upon by the Parties. The Settlement Website shall be optimized for mobile device use.

23. Toll-Free Number: Within ten (10) Days after entry of this Preliminary Approval Order, the Settlement Administrator shall set up a toll-free telephone number for receiving toll-free calls related to the Settlement. Pre-recorded messages will be available in both English and Spanish languages. That telephone number shall be maintained and operational until thirty (30) Days after the last distribution of the Settlement Class Member Refunds.

24. By no later than fourteen days before the Fairness Hearing, the Settlement Administrator shall file (or provide to Settlement Class Counsel for filing) a declaration confirming that the Notice Program has been implemented in accordance with the Settlement Agreement and this Order (including CAFA notice) and providing the number of Claims received as of that time, the total dollar amount of the Claims received as of that time, and the number and identity of timely exclusion requests and objections received.

Claims Procedure

25. The Court approves the form and content of the proposed Claim Form, in the form attached as Exhibit A to the Settlement Agreement, approves the claims process set forth in Section IX of the Settlement Agreement for Settlement Class Members to submit Claims, and directs the Parties and the Settlement Administrator to implement such claims process.

26. The deadline for Class Members to file Claims shall be 125 days after the entry of this Order.

Opt-Out and Objection Procedures

27. A Person within one or both of the Settlement Class definitions who wishes to opt

out of the Settlement must complete and send to the Settlement Administrator and the Parties' Counsel a request for exclusion that is post-marked no later than ninety (90) days after the entry of this Order (the Opt-Out and Objection Date). The request for exclusion must be personally signed by the Person requesting exclusion and must contain a statement that indicates his or her desire to be excluded from the Settlement. Opt-outs shall be permitted on an individual basis only. So-called "mass" or "class" opt-outs, whether filed by third parties on behalf of a "mass" or "class" of class members or multiple class members where no personal statement has been signed by each and every individual class member, shall not be allowed.

28. Except for those members of the Settlement Classes who timely and properly file a request for exclusion, all members of the Settlement Classes will be deemed to be Settlement Class Members for all purposes under the Settlement Agreement, and upon the Effective Date, will be bound by its terms, and will also be bound by all further proceedings, orders, and judgments in this Litigation, regardless of whether they file a Claim Form or receive any Refund.

29. Any member of the Settlement Classes who properly opts out of the Settlement shall not: (i) be bound by any Final Order and Judgment relating to the Settlement; (ii) be entitled to relief under, or be affected by, the Settlement Agreement; (iii) gain any rights by virtue of the Settlement Agreement; or (iv) be entitled to object to the Settlement.

30. Any Settlement Class Member who does not submit a timely and valid request for exclusion shall have the right to object to the proposed Settlement and/or to Settlement Class Counsel's motion for attorneys' fees, costs, or service awards, by complying with the objection provisions set forth herein. Objections shall be filed or mailed to the Court and sent to Class Counsel and American's Counsel (at addresses included in the Long Form Notice), filed/postmarked no later than ninety (90) days after the entry of this Order (the Opt-Out and

Objection Date), and must include the following: (1) The name, address, telephone number of the Person objecting and, if represented by counsel, of his/her counsel; (2) A statement that he or she is a member of one or both of the Settlement Classes and paid checked baggage fees on or after February 24, 2017 for tickets purchased on or before April 8, 2020; (3) A statement of all objections to the Settlement; (4) the identity of all counsel who represent the objector in this matter, including any former or current counsel who may be entitled to compensation for any reason related to the objection; and (5) A statement of whether he or she intends to appear at the Fairness Hearing, either with or without counsel, and if with counsel, the name of his or her counsel who will attend. Only objections that are submitted in accordance with this paragraph shall be considered by the Court. Any Settlement Class Member who does not timely submit an objection in accordance with this paragraph, shall waive the right to object or to be heard at the Fairness Hearing and shall be forever barred from making any objection to the proposed Settlement or to Class Counsel's motion for attorneys' fees, costs, and service awards. Any Settlement Class Member who objects to the Settlement shall nevertheless be entitled to all benefits of the Settlement if it is approved and becomes final and s/he submits a valid Claim Form.

31. Any attorney, hired by a Settlement Class Member for the purpose of objecting to the proposed Settlement, the Attorneys' Fee Award or the Service Award and who intends to make an appearance at the Fairness Hearing, shall provide to the Settlement Administrator (who shall forward it to Class Counsel and American's Counsel) and file with the Clerk of the Court a notice of intention to appear no later than ninety (90) days after the entry of this Order (the Opt-Out and Objection Date), or as the Court may otherwise direct.

32. The Settlement Administrator shall establish a post office box and email address in the name of the Settlement Administrator to be used for receiving requests for exclusion and any

other communications, and providing that only the Settlement Administrator, Class Counsel, American's Counsel, the Court, the Clerk of the Court and their designated agents shall have access to this post office box, except as otherwise provided in the Settlement Agreement.

33. The Settlement Administrator shall provide Class Counsel and American's Counsel with periodic reports about Opt-Out requests and shall provide them with a final Opt-Out List within fourteen (14) Days after the Opt-Out and Objection Date. The Settlement Administrator shall file with the Court the Opt-Out List with an affidavit attesting to the completeness and accuracy thereof no later than seven (7) days before the Fairness Hearing.

Fairness Hearing

34. The Court will hold a Fairness Hearing **on Friday, May 5, 2023 at 1:30 PM**, in the United States District Court for the Northern District of California, Room 201, 501 West 10th Street, Fort Worth, TX, 76102. The purposes of the Fairness Hearing will be to: (i) determine whether the proposed Settlement Agreement should be finally approved by the Court as fair, reasonable, adequate, and in the best interests of the Settlement Classes; (ii) determine whether judgment should be entered pursuant to the Settlement Agreement, dismissing the Action with prejudice and releasing all Released Claims; (iii) rule on Class Counsel's motion for attorneys' fees, costs, and service awards; (iv) consider any properly filed objections; and (v) consider any other matters necessary in connection with the final approval of the Settlement Agreement.

35. By no later than thirty (30) days before the Opt-Out and Objection Date, Plaintiffs and Class Counsel shall file their: (a) motion for final approval of the Settlement Agreement, requesting entry of the Final Order and Judgment; and (b) Attorneys' Fee Award and Plaintiffs' Service Awards. Promptly after they are filed, these document(s) shall be posted on the Settlement Website.

36. By no later than seven (7) days before the Fairness Hearing, the Parties shall file any responses to any Settlement Class Member objections and any replies in support of final settlement approval and/or in support of Settlement Class Counsel's motion for attorneys' fees, costs, and service awards.

37. The Court may, in its discretion, modify the date and/or time of the Fairness Hearing, and may order that this hearing be held remotely or telephonically. In the event the Court changes the date, time, and/or the format of the Fairness Hearing, the Parties shall ensure that the updated information is posted on the Settlement Website.

38. Only Settlement Class Members who have submitted timely and valid objections, in accordance with the requirements of this Preliminary Approval Order, may be heard at the Fairness Hearing.

39. If, for any reason, this Settlement Agreement fails to become Final or receive approval from this Court, the orders, judgment and dismissal to be entered pursuant to this Settlement Agreement shall be vacated, and the Parties will be returned to the *status quo ante* with respect to the Litigation as if this Settlement Agreement had never been entered into, except that American shall remain liable to pay all Notice and Administration Costs already incurred.

40. Other than such proceedings as may be necessary to carry out the terms and conditions of the Settlement Agreement, all proceedings in the Action are hereby stayed and suspended until further order of this Court.

41. Pending final determination of whether the Settlement Agreement should be finally approved, Plaintiffs and all Settlement Class Members (unless and until they have timely excluded themselves from the Settlement) are barred and enjoined from: (i) filing, commencing, prosecuting, intervening in or participating as plaintiff, claimant, or class member in any other

lawsuit or administrative, regulatory, arbitration, or other proceeding in any jurisdiction based on, or arising out of, the Released Claims; and (ii) filing, commencing, participating in, or prosecuting a lawsuit or administrative, regulatory, arbitration, or other proceeding as a class action on behalf of any member of the Settlement Classes who has not timely excluded himself or herself (including by seeking to amend a pending complaint to include class allegations or seeking class certification in a pending action), based on or arising out of the Released Claims. This bar and injunction is necessary to protect and effectuate the Settlement Agreement and this Preliminary Approval Order, and this Court's authority to effectuate the Settlement, and is ordered in aid of this Court's jurisdiction.

42. This Preliminary Approval Order, the Settlement Agreement, and all negotiations, statements, agreements, and proceedings relating to the Settlement, or any matters arising in connection with settlement negotiations, proceedings, or agreements, shall not be construed as or deemed to be evidence of an admission or concession by any person, including American, and shall not be offered or received in evidence, or subject to discovery, in this or any other action or proceeding except in an action brought to enforce its terms or except as may be required by law or Court order.

43. The Court shall retain continuing and exclusive jurisdiction over the Parties to this Settlement and all Settlement Class Members for purposes of the administration and enforcement of this Settlement.

44. The Parties are directed to take all necessary and appropriate steps to establish the means necessary to implement the Settlement Agreement according to its terms should it be finally approved.

45. The Court may, for good cause, extend any of the deadlines set forth in this

Preliminary Approval Order without further notice to Settlement Class Members. Without further order of the Court, the Parties may agree to make non-material modifications in implementing the Settlement that are not inconsistent with this Preliminary Approval Order.

46. The following chart summarizes the dates and deadlines set by this Preliminary Approval Order:

Last day for the Settlement Administrator to set up the Toll-Free Telephone Number and send CAFA Notice	10 days after entry of Preliminary Approval Order
Last day for American to provide the Settlement Class Notice List and related notice information to the Settlement Administrator	14 days after entry of Preliminary Approval Order
Last day for the Settlement Administrator to set up the Settlement Website	1 day before the Notice Date
Notice Date (Last day for the Settlement Administrator to send the Email Notice)	35 days after Preliminary Approval Date
Last day for the Settlement Administrator to send the Mail Notice	50 days after Preliminary Approval Date
Last day for the Settlement Administrator to send the first Reminder Email Notice	60 days after Preliminary Approval Date
Last day for Plaintiffs and Settlement Class Counsel to file motion for final approval of the Settlement, and motion for attorneys' fees, expenses and service awards	60 days after Preliminary Approval Date
Opt-Out and Objection Deadline	90 days after Preliminary Approval Date
Last day for the Settlement Administrator to send the second Reminder Email Notice and second Reminder Mail Notice	100 days after Preliminary Approval Date
Claims Deadline	125 days after Preliminary Approval Date
Last day for the Parties to file any responses to objections, and any replies in support of motion for final settlement approval and/or Settlement Class Counsel's application for attorneys' fees, expenses and service awards	7 days before Fairness Hearing
Fairness Hearing	Friday, May 5, 2023 at 1:30 PM

SO ORDERED on this **20th day of October, 2022.**

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release is entered into between Plaintiffs William Cleary and Filippo Ferrigni, individually and in their capacity as class representatives in the case captioned *Cleary, et al. v. American Airlines, Inc.*, Case No. 4:21-cv-00184-O (N.D. Tex. 2021), and Defendant American Airlines, Inc. (“American”) in order to effect a full and final settlement and dismissal with prejudice of all claims against American as settled in this Settlement Agreement. Capitalized terms shall have the meaning ascribed to them in Section II of this Settlement Agreement.

I. RECITALS

A. On or about February 24, 2021, Plaintiffs William Cleary and Filippo Ferrigni filed a complaint in the District Court for the Northern District of Texas (Fort Worth division) (the “Court”) alleging that between 2013 and 2021 American had incorrectly required certain customers to pay checked baggage fees. Each Plaintiff sought actual damages, interest, and attorneys’ fees, and an injunction on behalf of himself and a proposed class.

B. On September 2, 2021 the Court granted in part Plaintiffs’ Motion for Class Certification and certified two classes:

i) “Qualified American ticket holders who received email confirmation that promised them free checked baggage and were required to pay to check one or more such bags”; and

ii) “Qualified American partner credit card holders that were promised free checked baggage and were required to pay to check one or more such bags.”

C. On July 22, 2022 the Court granted in part and denied in part American’s Motion for Partial Summary Judgment, dismissing certain of Plaintiffs’ claims. Among other rulings, the Court narrowed the class membership and class period applicable to both previously certified classes. As a result, claims that were included in the September 2, 2021 order, but dismissed in the July 22, 2022 order, are not included in the Settlement Classes, as defined in this Agreement, and are not entitled or

subject to the Settlement consideration set forth in Section IV of this Agreement, nor are they subject to the Release set forth in Section XII, Paragraph B of this Agreement.

D. The Parties participated in a mediation on September 30, 2021 before mediator Clay Cogman and did not reach a settlement. The parties again participated in a full-day mediation on August 8, 2022 in New York, New York before mediator Clay Cogman. The Parties were not able to reach a settlement during that mediation but agreed to continue negotiations.

E. The Parties continued their settlement discussions and reached an agreement in principle to resolve Plaintiffs' and the Settlement Classes' claims, subject to finalization of a mutually-agreeable settlement agreement and subject to Court approval.

F. American has alleged a variety of affirmative defenses, denies each and every allegation of wrongdoing, liability and damages that were or could have been asserted in the Litigation, and specifically denies that it engaged in any wrongdoing whatsoever. Nonetheless, without admitting or conceding any wrongdoing, liability or damages or the appropriateness of Plaintiffs' claims or similar claims for class treatment, American consents to the Settlement and Settlement Agreement solely to avoid the expense, inconvenience and inherent risk of litigation as well as continued disruption of its business operations.

G. Nothing in this Settlement or Settlement Agreement shall be construed as an admission or concession by American of the truth of any allegations raised in the Litigation or of any fault, wrongdoing, liability or damages of any kind.

H. Plaintiffs and Class Counsel have conducted an examination of the facts and documents relating to the Litigation, including documents and information produced by American, and have concluded that this Settlement and Settlement Agreement provides fair, reasonable and adequate benefits to Plaintiffs and the Settlement Classes and resolves all claims in the Litigation and issues for Settlement Class Members, as described in the Release set forth in Section XII, Paragraph

B of this Agreement, without further litigation and the risks and uncertainties inherent in litigation. Plaintiffs and Class Counsel have further concluded that this Settlement is in the best interest of the Settlement Classes.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants, promises and general releases set forth below and subject to preliminary and final approval of the Court, the Parties hereby agree as follows:

II. DEFINITIONS

As used herein, the following terms have the meanings set forth below.

A. “American” means Defendant American Airlines, Inc.

B. “American’s Counsel” means Latham & Watkins LLP and Kelly Hart & Hallman.

C. “At-Issue Baggage Fees” means and includes the following baggage fees paid during the Relevant Timeframe by Settlement Class Members, to the extent such baggage fees have not yet been refunded by American and were not released in *Max Bazerman, et al. v. American Airlines, Inc.*, Case No. 1:17-cv-11297-WGY (D. Mass 2017):

(i) Where Email Confirmation Settlement Class Members received an email confirmation that in its body (and not merely in documents incorporated by reference) promised them one or more checked bags for no charge or “USD 0.00” and baggage fees were charged by American inconsistent with such email confirmation promise; or

(ii) Baggage fees improperly charged by American to Credit Card Settlement Class Members, while they held Citi or Barclay’s American partner credit cards that entitled them to free checked baggage, on domestic itineraries. For the removal of doubt, this includes passengers on international itineraries who were

charged to check a first bag, of standard weight and size, for the entirely domestic portion of such itineraries in addition to the international portions of those itineraries.

D. “Attorneys’ Fee Award” means the Court-approved award for attorneys’ fees and reimbursement of costs and expenses payable to Class Counsel as defined in Section VI, Paragraph A.

E. “CAFA Notices” means the notice of this Settlement to be served upon State and Federal regulatory authorities as required by the Class Action Fairness Act of 2005, 28 U.S.C. § 1715.

F. “Claim Deadline” means the date by which Settlement Class Members must submit Claim Forms to be eligible for the benefits described herein, which date will be specified in the Class Notice. The Parties will request that the Court set the Claim Deadline for one hundred twenty-five (125) Days after the Preliminary Approval Date.

G. “Claim Form” means the claim form that Settlement Class Members must complete and submit on or before the Claim Deadline to be eligible for the benefits described in Section IV of this Agreement, which shall be without material alteration from Exhibit A.

H. “Class Counsel” means Oren S. Giskan of Giskan Solotaroff & Anderson LLP, Joseph S. Tusa of Tusa P.C. and Roger N. Heller of Lieff Cabraser Heimann & Bernstein, LLP.

I. “Court” means the United States District Court for the Northern District of Texas.

J. “Credit Card Settlement Class Members” means all persons who fall within the definition identified in Section III, Paragraph A(ii).

K. “Days” means calendar days, except that when computing any period of time prescribed or allowed by this Settlement Agreement, the day of the act, event or default from which the designated period of time begins to run shall not be included. Furthermore, when computing any period of time prescribed or allowed by this Settlement Agreement, the last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a Federal legal holiday, in which

event the period runs until the end of the next day which is not a Saturday, Sunday or Federal legal holiday.

L. “Email Confirmation Settlement Class Members” means all Persons who fall within the definition identified in Section III, Paragraph A(i).

M. “Email Notice” means an email notice, substantially in the form attached hereto as Exhibit B, that, among other things, provides information about the Settlement required by Fed. R. Civ. P. 23(c) and (e), provides hyperlinks to an online Claim Form that can be completed electronically, and refers Settlement Class Members to the Settlement Website for additional information.

N. “Effective Date” means the date defined in Section XIV, Paragraph A.

O. “Fairness Hearing” means the hearing at which the Court considers Plaintiffs’ and the Settlement Classes’ motion for final approval of the Settlement.

P. “Final” means final as defined in Section XIV, Paragraph B.

Q. “Final Order and Judgment” means a final order entered by the Court after the Fairness Hearing, granting approval of the Settlement as further described in Section XII.

R. “Litigation” means the action captioned *Cleary, et al. v. American Airlines, Inc.*, Case No. 4:21-cv-00184-O (N.D. Tex. 2021).

S. “Long Form Notice” means the form of Class Notice to be viewable and downloadable via the Settlement Website, substantially in the form attached hereto as Exhibit C.

T. “Mail Notice” means a mailed notice, substantially in the form attached hereto as Exhibit D, that, among other things, includes a removable, postage prepaid Claim Form, and provides information about the Settlement required by Fed. R. Civ. P. 23(c) and (e), and refers Settlement Class Members to the Settlement Website for a Claim Form and additional information.

U. “Notice and Administration Costs” means the reasonable and authorized costs and expenses of the Class Notice Program and all reasonable and authorized costs and expenses incurred by the Settlement Administrator in administering the Settlement, including but not limited to costs and expenses associated with sending and transmitting notice of the Settlement to Settlement Class Members, assisting Settlement Class Members, processing claims, sending notices of Refund amounts pursuant to Section IX, Paragraph Q, administering disputes regarding Refund amounts, issuing and mailing the Refunds and other benefits provided by the Settlement and other reasonable and authorized fees and expenses of the Settlement Administrator.

V. “Opt-Out” means a member of the Settlement Classes who properly and timely submits a request for exclusion from the Settlement as set forth in Section X, Paragraph C. An Opt-Out may rescind a request for exclusion by submitting a written rescission of their request for exclusion.

W. “Opt-Out List” means the list compiled by the Settlement Administrator identifying those persons who properly and timely submit a request for exclusion from the Settlement and become Opt-Outs.

X. “Opt-Out and Objection Deadline” means the date by which a request for exclusion must be sent to the Settlement Administrator in order for a member of the Settlement Classes to be excluded from the Settlement, and the date by which Settlement Class Members must file objections, if any, to the Settlement. The parties will request that the Court set the Opt-Out and Objection Deadline for ninety (90) Days after the Preliminary Approval Date.

Y. “Parties” means Plaintiffs and American.

Z. “Person” means an individual, corporation, partnership, limited partnership, limited liability company, association, member, joint stock company, estate, legal representative, trust, unincorporated association, any business or legal entity and such individual’s or entity’s spouse, heirs, predecessors, successors, representatives and assignees.

AA. “Plaintiffs” means William Cleary and Filippo Ferrigni.

BB. “Preliminary Approval Date” means the date the Preliminary Approval Order has been executed and entered by the Court.

CC. “Preliminary Approval Order” means the order defined in Section XI and entered by the Court preliminarily approving the Settlement.

DD. “Refund” means the cash compensation paid by American to Settlement Class Members who submit Valid Claims as detailed in Sections IV and IX and payable from the Settlement Account.

EE. “Release” means the release and discharge of all Released Claims against the Released Persons by Plaintiffs, all Settlement Class Members (and their respective present, former and future administrators, agents, assigns, attorneys, executors, heirs, partners, predecessors-in-interest and successors), who have not excluded themselves from the Settlement, and all persons who file claims for At-Issue Baggage Fees that American determines are valid and issues a Refund, and shall include the agreement and commitment by Plaintiffs and all Settlement Class Members who have not requested exclusion to not now or hereafter initiate, maintain or assert against the Released Persons any causes of action, claims, rights, demands, actions, claims for damages, equitable, legal and/or administrative relief, interest, demands or rights asserting any Released Claims, as defined herein, including without limitation, any such claims for damages of any kind, including those in excess of actual damages, whether based on federal, state or local law, statute, ordinance, regulation, contract, common law or any other sources. The Release does not apply to members of the Settlement Classes who timely opt-out of the Settlement or who did not receive Email Notice or Mail Notice, and does not apply to baggage fees that are not At-Issue Baggage Fees.

FF. “Released Claims” means any and all claims, actions, causes of action, rights, demands, suits, debts, liens, contracts, agreements, offsets or liabilities, including but not limited to

statutory consumer protection claims, tort claims, conversion claims, negligence claims, claims for breach of contract, breach of the duty of good faith and fair dealing, breach of statutory duties, actual or constructive fraud, misrepresentations, fraudulent inducement, statutory and consumer fraud, breach of fiduciary duty, unfair business or trade practices, conversion, restitution, rescission, compensatory and punitive damages, injunctive or declaratory relief, attorneys' fees, interests, costs, penalties and any other claims, whether known or unknown, alleged or not alleged in the Litigation, suspected or unsuspected, contingent or matured, under federal, state or local law, which Plaintiffs, any Settlement Class Member, and/or Releasing Persons had or have with respect to any conduct, act, omissions, facts, matters, transactions or oral or written statements or occurrences for checked baggage fees paid on or after February 24, 2017 for tickets purchased on or before April 8, 2020, arising from or relating to At-Issue Baggage Fees.

GG. "Released Persons" means American, its affiliates, past, present and future direct and indirect predecessors, successors, assigns, parents, subsidiaries, affiliates, joint venturers, partnerships, limited liability companies, corporations, unincorporated entities, divisions, groups, directors, officers, shareholders, members, employees, partners, agents, insurers and attorneys.

HH. "Releasing Persons" means Plaintiffs, all Settlement Class Members who have not requested exclusion from the Settlement (*i.e.*, become Opt-Outs), all persons who file claims for At-Issue Baggage Fees that American determines are valid and issues a Refund, and their respective present, former and future administrators, agents, assigns, attorneys, executors, heirs, partners, predecessors-in-interest and successors.

II. "Relevant Timeframe" means and includes baggage charges paid on or after February 24, 2017 for tickets purchased on or before April 8, 2020.

JJ. "Reminder Email Notice" means an email notice, substantially in the form attached hereto as Exhibit E.

KK. “Reminder Mail Notice” means a mailed notice, substantially in the form attached hereto as Exhibit F.

LL. “Service Award(s)” means any Court-approved awards to the individual Plaintiffs, as defined in Section VI, Paragraph D.

MM. “Settlement” means the settlement set forth in this Settlement Agreement.

NN. “Settlement Account” means an interest-bearing bank account designated by the Settlement Administrator to which American will transfer funds to cover all Refunds, as described further in Section V.

OO. “Settlement Administrator” means A.B. Data Ltd., subject to approval of the Court in the Preliminary Approval Order, who will administer the Settlement Class Notice Program, administer the Settlement in accordance with this Settlement Agreement and the orders of the Court, maintain the Settlement Website and engage in any other tasks directed by this Settlement Agreement, the Court or as agreed to by Class Counsel and American’s Counsel.

PP. “Settlement Agreement” or “Agreement” means this Settlement Agreement and Release, including all exhibits hereto.

QQ. “Settlement Classes” means and includes the Credit Card Settlement Class and the Email Confirmation Settlement Class, as defined herein.

RR. “Settlement Class Members” mean all Persons included in one or both of the Settlement Classes who do not exclude themselves (*i.e.*, become Opt-Outs) pursuant to Section X, Paragraph C.

SS. “Settlement Class Notice Program” means the process set forth in Section VIII of this Agreement for notifying the Settlement Classes of the Settlement and Settlement Agreement.

TT. “Settlement Website” means the dedicated website created and maintained by the Settlement Administrator, which will contain relevant documents and information about the

Settlement, including this Settlement Agreement, the Long Form Notice and the Claim Form, and provide a means for Settlement Class Members to submit Claim Forms electronically.

UU. “Valid Claim” means a timely and completed Claim Form submitted by a Settlement Class Member as more fully described in Sections IV and IX.

VV. The plural of any defined term includes the singular, and *vice versa*, as made necessary in context.

III. THE SETTLEMENT CLASSES

A. The Settlement Classes comprise all persons whose claims were certified by the Court in the September 2, 2021 order, excluding those claims dismissed by the Court’s July 22, 2022 order. Specifically, the Settlement Classes are as follows:

(i) The “Email Confirmation Settlement Class” means and includes: American ticket holders who both: (a) received email confirmation that in its body (and not merely in documents incorporated by reference) promised them one or more checked bags at no charge or for “USD0.00” and were thereafter required to pay to check one or more such bags on or after February 24, 2017 for tickets purchased on or before April 8, 2020; and (b) either were sent Mail Notice or Email Notice of the Settlement or otherwise submit a Valid Claim related to At-Issue Baggage Fees covered by subpart (a) of this definition.

(ii) The “Credit Card Settlement Class” means and includes: American-branded Citibank or Barclay’s partner credit card holders entitling them to free checked baggage who were required to pay to check one or more such bags on domestic itineraries on or after February 24, 2017 for tickets purchased on or before April 8, 2020 (for the removal of doubt, this includes passengers on layovers on international itineraries who were charged a second time to check bags for domestic portions of

those itineraries); and (b) either were sent Mail Notice or Email Notice of the Settlement or otherwise submit a Valid Claim related to At-Issue Baggage Fees covered by subpart (a) of this definition.

B. Specifically excluded from the Settlement Classes are the following Persons:

- (i) American and any Released Party;
- (ii) Persons whose only claims arise from baggage fees released in *Bazerman v. American Airlines, Inc.*, Case No. 1:17-cv-11297-WGY (D. Mass. 2017);
- (iii) Class Counsel and employees of their firms; and
- (iv) The Court and its staff.

C. This Court previously appointed the following as counsel for the certified Classes:

Oren S. Giskan
Giskan Solotaroff & Anderson LLP
90 Broad St., 2nd Floor
New York, NY 10004
Telephone: (212) 847-8315

Lead Class Counsel

Joseph S. Tusa
Tusa P.C.
P.O. Box 566
55000 Main Road, 2nd Floor
Southold, NY 11971
Telephone: (631) 407-5100

Roger Heller
Christopher E. Coleman
Lieff, Cabraser, Heimann & Bernstein, LLP
275 Battery Street, 29th Fl.
San Francisco, CA 94111-3339
Telephone: (415) 956-1000

Class Counsel

D. The Court previously entered an order finding that Plaintiffs are adequate representatives of the Classes. (ECF No. 66).

IV. REFUNDS TO THE SETTLEMENT CLASSES

A. Pursuant to the terms and conditions set forth in this Settlement Agreement, American agrees to fund the Settlement Account, which will be used to pay all Refunds to Valid Claimants (as defined below).

B. The Settlement Account shall be no less than Seven Million Five Hundred Thousand Dollars (\$7,500,000.00).

C. Subject to the terms of this Settlement Agreement, Settlement Class Members who submit a Valid Claim shall be eligible to receive a full refund of their At-Issue Baggage Fees. Settlement Class Members who submit Valid Claims are referred to herein as “Valid Claimants.” A Settlement Class Member on a multi-passenger itinerary shall be eligible to receive all At-Issue Baggage Fees for that itinerary. In the event that multiple Settlement Class Members submit claims as to a single itinerary, and if American’s records do not indicate which passenger paid the fees at issue, the Settlement Administrator shall contact each such claimant to determine how the refund should be apportioned among them.

D. No later than seven (7) Days after the resolution of any disputes regarding submitted Claim Forms challenged by American as set forth in Section IX, Paragraph C, the Settlement Administrator will provide Class Counsel and American’s Counsel with a report identifying the total amount claimed in Valid Claims (the “Total Claim Amount”).

E. If the Total Claim Amount is equal to or greater than \$7,500,000.00, then the Settlement Account amount to be funded by American shall be equal to the Total Claim Amount, and the Refund for each Valid Claimant shall be equal to the amount of their respective At-Issue Baggage Fees.

F. If the Total Claim Amount is less than \$7,500,000.00, then the Settlement Account amount to be funded by American shall be \$7,500,000.00. The difference between \$7,500,000.00 and

the Total Claim Amount shall be paid to Valid Claimants on a *pro rata* basis based on the amount of each Valid Claimant's respective At-Issue Baggage Fees, and each Valid Claimant's total Refund will be equal to their respective At-Issue Baggage Fees plus any *pro rata* allocation as described in this paragraph.

V. FUNDING THE SETTLEMENT

A. American shall have no obligation to make any payments whatsoever under this Settlement Agreement until after the Court enters a Preliminary Approval Order. Once the Court enters a Preliminary Approval Order, American shall pay reasonable Notice and Administration Costs arising under this Settlement Agreement by making such payments directly to the Settlement Administrator (or to such other party incurring such costs) as those costs are incurred and payment becomes due.

B. Within twenty-one (21) Days of the Effective Date, American will cause an amount sufficient to cover the Total Claim Amount (but in no event less than \$7,500,000.00) to be transferred to the Settlement Account as designated by the Settlement Administrator. Any interest that accrues on the Total Claim Amount (or \$7,500,000.00) in the Settlement Account will be the property of the Settlement Classes and added to the Refunds distributed to Settlement Class Members.

C. Amounts remaining in the Settlement Account six (6) months after disbursements of all Refunds (*i.e.*, consisting of undeliverable/un-negotiated Refund payments) shall be distributed as follows: (a) to the extent American paid more than \$7,500,000.00 to fund the Settlement Account, remaining funds up to the difference between the amount American paid to fund the Settlement Account and \$7,500,000.00 will be returned to American; and (b) all other remaining funds shall be distributed to Valid Claimants for whom Refund payments were effectuated if there are sufficient remaining funds to warrant such a distribution (including the administrative costs thereof), and shall otherwise be distributed via *cy pres* to such recipient(s) as are agreed on by the Parties. The

administrative costs of any secondary distribution will be paid from the remaining funds and will not increase American's payment obligation under the Settlement.

D. Under no circumstances shall American be obligated to pay more under this Settlement Agreement than the Total Claim Amount or \$7,500,000.00, whichever is greater, excluding Notice and Administration Costs, the Attorneys' Fee Award, and the Service Awards.

VI. ATTORNEYS' FEES AND COSTS AND SERVICE AWARDS

A. Class Counsel will apply to the Court for an aggregate award of attorneys' fees and reimbursement of litigation costs and expenses in an amount not to exceed a total of Two Million Eight Hundred Fifty Thousand (\$2,850,000.00), to be paid by American to Class Counsel separate and apart from the Refunds paid to Settlement Class Members. American will not oppose Class Counsel's application for said award of fees, costs and expenses and will not appeal any award of \$2,850,000.00 or less. The award of attorneys' fees, costs and expenses paid by American to Class Counsel shall not reduce the Refunds paid by American to the Settlement Classes. In no event shall American be required to pay more than \$2,850,000.00 in Class Counsel attorneys' fees, costs and expenses, including should the Court award more than that.

B. Class Counsel agree that once American has paid the Attorneys' Fee Award, American's obligations to Class Counsel shall be fully satisfied and discharged, Class Counsel shall have no further or other claim against American related to the Litigation or this Settlement, including but not limited to any attorneys' lien claim, and that American shall have fully discharged its obligation to pay fees, costs and expenses to any lawyers claiming to represent the interests of Plaintiffs or the Settlement Classes.

C. Within twenty-one (21) Days of the Effective Date, American will cause an amount sufficient to pay the Attorneys' Fee Award awarded by the Court (up to no more than \$2,850,000.00) to be transferred by wire transfer to a bank account designated by Class Counsel.

D. In recognition of the significant time and effort they have personally invested in the Action, including but not limited to consulting with Class Counsel, participating in an extensive discovery process, and providing information and input necessary for the prosecution of this case, which efforts have provided a benefit to the Settlement Classes, Plaintiffs William Cleary and Filippo Ferrigni shall each be entitled to apply to the Court for a service award. Plaintiffs shall apply for, and American will not oppose, Service Awards in an amount not to exceed Ten Thousand Dollars (\$10,000.00) to each Plaintiff. Any Service Awards approved by the Court shall be paid by American and will not reduce the Refunds paid by American to the Settlement Classes. Any application for Service Awards will not be based or conditioned upon Plaintiffs' support for the Settlement. In no event shall American be required to pay Service Awards of more than \$10,000.00 for each Plaintiff, including should the Court award more than that.

E. Plaintiffs agree that once American has paid any Service Awards approved by the Court, American's obligations to pay Service Awards to Plaintiffs shall be fully satisfied and discharged.

F. Within twenty-one (21) Days of the Effective Date, American will cause an amount sufficient to pay the Service Awards, in the amount approved by the Court (up to no more than \$10,000 for each Plaintiff), to be transferred to Class Counsel for the benefit of Plaintiffs William Cleary and Filippo Ferrigni.

G. Any order resolving Plaintiffs' and Class Counsel's applications to the Court for the payment of Attorneys' Fee Award and the Service Awards, or any appeal from any order relating thereto or reversal or modification thereof, will not operate to terminate or cancel this Settlement Agreement or affect or delay the finality of Final Order and Judgment approving the Settlement Agreement and the Settlement.

VII. SETTLEMENT ADMINISTRATION

A. In the motion for Preliminary Approval, Plaintiffs will request and American will not oppose, that the Court appoint A.B. Data Ltd. as Settlement Administrator. Once approved by the Court, the Settlement Administrator will be subject to the Court's supervision and direction as circumstances may require.

B. The Settlement Administrator shall be responsible for all matters relating to the administration of this Settlement, as set forth herein. Those responsibilities include, but are not limited to: (i) maintaining the Settlement Account; (ii) providing Notice in accordance with the Court-approved Settlement Class Notice Program; (iii) obtaining new addresses for returned email and mail; (iv) setting up and maintaining the Settlement Website and toll-free telephone number; (v) fielding inquiries about the Settlement; (vi) processing Claim Forms (hard-copy and electronic); (vii) acting as a liaison between Settlement Class Members and the Parties' counsel regarding claims information; (viii) rejecting any Claim Form where there is evidence of fraud; (ix) sending notice of Refund amounts and administering the dispute process regarding same; (x) distributing Refunds from the Settlement Account to Valid Claimants; and (xi) any other tasks reasonably required to effectuate the foregoing.

C. American will bear all Notice and Settlement Administration Costs, in addition to (*i.e.*, on top of) American's payment of the Settlement Account amount. To the extent the Settlement Administrator pays any Notice or Settlement Administration Costs reasonably necessary to effectuate this Settlement Notice Plan, American shall reimburse the Settlement Administrator for such costs. The Settlement Administrator shall maintain detailed records of the costs spent on the administration of the Settlement and shall provide those and other administration fees to American's counsel upon request.

D. Within ten (10) Days after entry of the Preliminary Approval Order, the Settlement Administrator shall set up a toll-free telephone number for receiving toll-free calls related to the Settlement. Pre-recorded messages will be available in both English and Spanish languages. That telephone number shall be maintained and operational until thirty (30) Days after the last distribution of the Refunds.

E. If any of the terms of this Settlement relating to the Settlement Administrator's services would unreasonably hinder or delay such processes or make them more costly, the Settlement Administrator shall so advise the Parties' counsel, and the Parties shall take reasonable actions in response.

VIII. SETTLEMENT CLASS NOTICE PROGRAM

A. The Parties agree the following Settlement Class Notice Program provides notice to the Settlement Classes that satisfies all applicable standards including Fed. R. Civ. P. 23(c) and (e) and due process.

B. The Notice Plan shall include the following types of notice in the forms approved by the Court in the Preliminary Approval Order: (i) Email Notice supplemented by reminder email notices; (ii) Mail Notice supplemented by a reminder mail notice (iii) a case-specific Settlement Website that includes a downloadable Long Form Notice; (iv) Press Release; and (v) CAFA Notice.

C. Language of Notice. The Long Form Notice available on the Settlement Website shall be available in English and Spanish, and the Mail Notices and Email Notices shall advise Settlement Class Members, in Spanish, that information will be made available in Spanish upon request to the Settlement Administrator.

D. To facilitate the notice and claims administration process, within fourteen (14) Days of the Preliminary Approval Date, American will provide to the Settlement Administrator, in an electronically searchable and readable format a "Settlement Class Notice List" that includes: (i) a list

of all individuals who may be members of the Settlement Classes based on the Class Notice Lists previously used in this matter, as adjusted based on this Court's ruling on American's Motion for Partial Summary Judgment; (ii) the last known mailing addresses and email addresses for each such individual; and (iii) each passenger's date of birth, if present in American's business records, to facilitate a search for the passenger's contact information based on name plus date of birth.

E. Updating Settlement Class Notice List. The Settlement Administrator will take commercially reasonable steps to obtain current mailing and email addresses for Settlement Class Members and may utilize the services of third-party vendors and information providers to obtain such information. Among those steps, the Settlement Administrator will use the National Change of Address Database maintained by the United States Postal Service to update mailing addresses before Mail Notices are mailed to Settlement Class Members.

F. The Settlement Administrator shall establish the Settlement Website, at the URL www.bagfeesettlement.com. The Settlement Website shall provide information and relevant documents related to this Settlement, including but not limited to, the following: applicable deadlines; a downloadable copy of the Long Form Notice; a Claim Form that may be submitted by U.S. Mail, a mechanism for Settlement Class Members to submit online Claim Forms electronically via the Settlement Website; orders of the Court pertaining to the Settlement; this Agreement; and contact address(es) for questions. Class Counsel and American's Counsel shall agree on all information and documents to be posted on the Settlement Website. The Claim Form shall be removed from the Settlement Website five (5) Days after the Claim Deadline has passed. The Settlement Website shall be operational no later than the day before the first notices are disseminated or published, and will be deactivated at a time agreed upon by the Parties. The Settlement Website shall be optimized for mobile device use.

G. No later than thirty-five (35) Days after the Preliminary Approval Date (the “Notice Date”), the Settlement Administrator will send the Court-approved Email Notice (substantially in the form attached hereto as Exhibit B) by email to all persons on the Settlement Class Notice List for whom an email address was provided by American or located by the Settlement Administrator.

H. No later than fifty (50) Days after the Preliminary Approval Date, the Settlement Administrator will mail the Court-approved Mail Notice, substantially in the form attached hereto as Exhibit D), including a Claim Form with prepaid postage (Exhibit A), to all persons on the Settlement Class Notice List who have yet to submit a Claim Form and for whom a mailing address was provided by American or located by the Settlement Administrator.

I. For any Mail Notices returned as undeliverable, the Settlement Administrator shall update addresses based on any forwarding information received from the United States Postal Service. The Settlement Administrator shall promptly re-mail any Mail Notices that are returned as non-deliverable with a forwarding address to such forwarding address. For Mail Notices that are returned undeliverable without a forwarding address, the Settlement Administrator shall perform skip tracing and shall re-mail Mail Notices to any new addresses identified through such skip-tracing.

J. Reminder Email Notices: No later than sixty (60) Days after the Preliminary Approval Date, the Settlement Administrator will email the Court approved Reminder Email Notice substantially in the form attached hereto as Exhibit E) to all individuals who were sent the Email Notice and who have yet to submit a Claim Form as of that time. No later than one hundred (100) Days after the Preliminary Approval Date the Settlement Administrator will email a second Reminder Email Notice to all individuals who were sent the Email Notice and who have yet to submit a Claim Form as of that time. The Parties, with input from the Settlement Administrator, will negotiate in good faith to determine whether a third Reminder Email Notice (to individuals who were sent the

Email Notice and who have yet to submit a Claim Form as of one hundred fifteen (115) Days after the Preliminary Approval Date) is necessary.

K. Reminder Mail Notice: No later than one hundred (100) Days after the Preliminary Approval Date, the Settlement Administrator will mail the Court-approved Reminder Mail Notice substantially in the form attached hereto as Exhibit F), to all individuals who were sent the Mail Notice and who have yet to submit a Claim Form as of that time.

L. All costs and expenses incurred by the Settlement Administrator in connection with implementing the Settlement Class Notice Program, including for address confirmation, skip-tracing, emailing, mailing, and re-mailing of notices, will be considered Notice and Administration Costs.

M. No earlier than the Notice Date and no later than seven (7) Days after the Notice Date, Class Counsel shall issue a Press Release, substantially in the form attached hereto as Exhibit G.

N. American shall serve notice of the Settlement, with the assistance of the Settlement Administrator, that meets the requirements of 28 U.S.C. § 1715 on the appropriate federal and state officials within ten (10) Days of the filing of the motion for Preliminary Approval of the Settlement with the Court.

O. Prior to the Fairness Hearing, the Settlement Administrator shall provide to the Court documentation reflecting that the Settlement Class Notice Program has been executed in accordance with the Settlement Agreement and Preliminary Approval Order. That submission shall include the number of Claims received as of that time, the total dollar amount of the Claims received as of that time, and the number and identity of timely exclusion requests and objections received.

P. The Settlement Administrator, Class Counsel or any Person acting on behalf of Class Counsel shall not provide or publish any form of notice other than the agreed-upon Settlement Class Notice without prior written approval of the content of any such notice by American's Counsel. This Paragraph shall not prevent Class Counsel from directing information about the Settlement on their

respective firm websites, provided that information is consistent with this Agreement and the Notices attached hereto.

IX. CLAIMS PROCESS AND REFUND PAYMENTS TO CLASS MEMBERS

A. A Claim Form, in the form attached as Exhibit A hereto, shall be approved by the Court in the Preliminary Approval Order for Settlement Class Members to submit a Claim. A Claim Form with postage prepaid will be included with the Mail Notice and Reminder Mail Notice and also made available for download on the Settlement Website or by request to the Settlement Administrator. Settlement Class Members will have the option of submitting Claim Forms via U.S. Mail or electronically via the Settlement Website. The Settlement Website will include an online Claim Form functionality whereby Settlement Class Members can submit Claim Forms electronically. The Email Notice and Reminder Email Notices shall include hyperlinks to the Settlement Website, including to the page on the Settlement Website where online Claim Forms may be submitted electronically.

B. All Settlement Class Members who do not Opt-Out shall be entitled to submit a Claim Form for a Refund as described herein

C. American will have the right to challenge the validity of claims in the following instances:

- (i) American's records indicate that the claim was previously refunded;
- (ii) The claim is submitted by a passenger whose At-Issue Baggage Fees were charged on a multi-passenger PNR, such that the passenger submitting the claim may not have paid the At-Issue Baggage Fees;
- (iii) Claim forms that are not completed; and/or
- (iv) In the event that the Parties discover, during the course of administering this Settlement Class Notice Plan, that there are other, currently unforeseen

circumstances affecting multiple claimants, they will negotiate in good faith and may agree that American has the right to challenge the validity of those claims as well.

D. In order for a Claim to be a Valid Claim, the following must apply:

- (i) All required information on the Claim Form has been completed;
- (ii) The Claim Form is signed (if submitted by U.S. Mail or the equivalent if submitted electronically);
- (iii) The Claim Form is postmarked or submitted via the Settlement Website on or before the Claim Deadline; and
- (iv) Either American does not challenge the Claim Form or the Claim Form is determined to be Valid following the challenge process described in this Section IX.

E. Any Settlement Class Member who has submitted or submits an invalid, incomplete or inaccurate Claim Form shall be informed of the deficiency by the Settlement Administrator and thereafter be permitted to re-submit a Claim Form within thirty (30) Days from receiving notice of the deficiency or prior to the Claims Deadline, whichever date is later. Class Counsel and American's Counsel shall be kept apprised of the volume and nature of defective claims and Class Counsel shall be permitted to communicate with Settlement Class Members as they deem appropriate to cure such deficiencies.

F. Aside from the Settlement Class Members themselves, so long as appropriate documentation is provided to the Settlement Administrator, Claim Forms may be submitted by (and corresponding Refunds, if any, shall be made payable to) the parent or Court-appointed guardian of a Settlement Class Member who is a minor, by the executor or administrator of a Settlement Class Member's estate, by the Court-approved guardian for a Settlement Class Member or for a Settlement Class Member for whom you have a signed power of attorney.

G. Claims for Settlement Class Members who are deceased may be submitted by (and corresponding Refunds, if any, shall be made payable to) the estate of the deceased Settlement Class Member, provided that the Settlement Class Member's estate informs the Settlement Administrator of the Settlement Class Member's death and provides a death certificate confirming that the Settlement Class Member is deceased prior to the Claim Deadline or deadline to remedy claim deficiencies described in Section IX, Paragraph E. If the Settlement Class Member's estate does not inform the Settlement Administrator of the Settlement Class Member's death and provide a death certificate prior to the Claim Deadline or deadline to remedy claim deficiencies described in Section IX, Paragraph E, then any such claims shall not be considered Valid Claims.

H. The Settlement Administrator shall be responsible for reviewing all claims to determine whether any claim is not substantially in compliance with the instructions on the Claim Form or is postmarked later than the Claim Deadline. Within forty-five (45) Days of the Claim Deadline, the Settlement Administrator shall provide a report of any rejected claims to American's Counsel and Class Counsel. If Class Counsel do not agree with the rejection of a claim, they shall bring it to the attention of American's Counsel, and the Parties shall meet and confer and attempt, in good faith, to resolve any dispute regarding the rejected claim. Following their meet and confer, the Parties will provide the Settlement Administrator with their positions regarding the disputed, rejected claim. The Settlement Administrator, after considering the positions of the Parties and, if appropriate, seeking any additional information from the Settlement Class Member, will make the final decision in its sole discretion.

I. On a rolling basis, the Settlement Administrator shall report all Valid Claims to American's Counsel. For each Valid Claim, American shall be responsible for verifying whether the claimant is a Settlement Class Member, whether he/she incurred any At-Issue Baggage Fees, and for calculating the total At-Issue Baggage Fees incurred by the Class Member, if any ("Verified Claims").

For all claims not verified by American, American shall provide Class Counsel with the information on which American based its decision to not verify the claim. That information shall be provided to Class Counsel a reasonable time prior to any meet and confer concerning the claim.

J. On a rolling basis, but not later than twenty-one (21) Days after the Claim Deadline, American shall provide the Settlement Administrator and Class Counsel with a report of the Refund amounts associated with each Verified Claim, if any. American will explain that methodology in the form of a declaration, and will grant the Settlement Administrator access to data sufficient to verify that methodology and the calculations of the Refund amounts payable to Settlement Class Members who submitted Valid Claims. The Settlement Administrator shall thereafter, using the declaration and data provided by American, confirm the Refund amounts in the refund report served by American on Class Counsel and the Settlement Administrator. The Parties and Settlement Administrator will thereafter review and attempt to reconcile any discrepancies in the Refund calculations performed by American and the Settlement Administrator. The Parties shall meet and confer and attempt, in good faith, to resolve any disputes regarding a Verified Claim or Refund amount calculation. Following their meet and confer, if the Parties have not come to an agreement, the Parties will provide the Settlement Administrator with their positions. The Settlement Administrator, after considering the positions of the Parties and, if appropriate, seeking any additional information from the Settlement Class Member, will make the final decision in its sole discretion, subject only to review by the Court.

K. On a rolling basis, beginning fourteen (14) Days of receiving a report as described in Section IX, Paragraph J above, the Settlement Administrator will then notify all Settlement Class Members of their Refund amount and provide instructions for how the Settlement Class Member can dispute the amount of their Refund using the method of communication used by the Settlement Class Member to submit the claim (*i.e.* Settlement Class Members who submitted their claims by mail will

receive mail notification and others will receive email notification if an email address is available, or otherwise will receive mail notification).

L. Any Settlement Class Member who does not agree with American's Refund amount determination shall have the opportunity to dispute American's determination but must do so within thirty (30) Days of receiving the notification described in Section IX, Paragraph J above or prior to the Claims deadline, whichever date is later. To dispute the Refund amount, the Settlement Class Member must submit a letter or email to the Settlement Administrator that includes the following information (this list of required information will be included in the Refund notice emails/letters):

- A heading that states "Dispute Refund Amount" and includes the case name and case number – *Cleary, et al. v. American Airlines, Inc.*, Case No. 4:21-cv-00184-O (N.D. Tex. 2021).
- Name, address, telephone number, and AAdvantage number (if one exists).
- A brief statement explaining why the Settlement Class Member disagrees with the Refund amount.
- Any evidence that the Refund amount is incorrect (*e.g.*, a receipt showing the checked bag fees paid, a confirmation email proving travel was in a premium cabin, *etc.*).

M. Within thirty (30) Days of receiving the letter or other written document described in Section IX.K above, American and the Settlement Administrator will review the Settlement Class Member's disputed Refund amount to determine its validity and communicate its determination to Class Counsel.

N. If Class Counsel agrees with American's determination, they shall bring it to the attention of American's Counsel within fourteen (14) Days of receiving American's position, and

American will then notify the Settlement Administrator of the Parties' final position. The Settlement Administrator will notify the Settlement Class Member by email, or mail when no email address is available, if there has been a change in status within fourteen (14) Days of receiving the Parties' position.

O. If Class Counsel do not agree with American's dispute determination, they shall bring it to the attention of American's Counsel within twenty-one (21) Days of receiving American's determination, and the Parties shall meet and confer and attempt, in good faith, to resolve the disputed Refund amount. Following their meet and confer, the Parties will provide the Settlement Administrator with their positions. The Settlement Administrator, after considering the positions of the Parties and, if appropriate, seeking any additional information from the Settlement Class Member, will make the final decision in its sole discretion, subject only to review by the Court. After a decision has been made, the Settlement Administrator will notify the Settlement Class Member of any change in status by email, or mail when no email address is available, within twenty-one (21) Days of receiving the Parties positions.

P. American shall also have the right to audit Claim Forms for fraud. In the event that American determines that a Claim Form is fraudulent and should be rejected, American shall bring it to the attention of Class Counsel, and the Parties shall meet and confer and attempt, in good faith, to resolve any dispute regarding the rejected claim. Following their meet and confer, the Parties will provide the Settlement Administrator with their positions regarding the disputed, rejected claim. The Settlement Administrator, after considering the positions of the Parties and, if appropriate, seeking any additional information from the Settlement Class Member, will make the final decision in its sole discretion, subject only to review by the Court.

Q. At any time during the claims process, if the Settlement Administrator has a reasonable suspicion of fraud, the Settlement Administrator shall immediately notify both Class Counsel and

American's Counsel of that fact and the basis for its suspicion. Class Counsel and American's Counsel shall endeavor to reach an agreed-upon solution to any suspected fraud and, if necessary, American may suspend the claims process, and the Parties will promptly seek assistance from the Court.

R. Within seven (7) Days after American funds the Settlement Account, the Settlement Administrator shall cause the Refunds in the form of checks or other forms of electronic payment to be distributed to Valid Claimants.

S. For any Refund checks returned as undeliverable with forwarding address information, the Settlement Administrator will re-mail the Refund check to the new address identified. For any Refund checks returned as undeliverable without forwarding address information, the Settlement Administrator shall make reasonable efforts to obtain a new mailing address for that Settlement Class Member. If any electronic Refund payment is returned or otherwise cannot be effectuated, the Settlement Administrator will mail that Valid Claimant a Refund check, subject to the potential re-mail process as set forth above in this paragraph. The Settlement Administrator shall advise Class Counsel and American's Counsel of the names of the claimants whose checks or electronic distributions are returned by the postal service or are not effectuated as soon as practicable. Each settlement check will be negotiable for one hundred eighty (180) Days after it is issued.

X. OBJECTIONS AND OPT-OUT RIGHTS

A. Any Settlement Class Member may object to the Settlement or any part thereof. To be considered, an objection must be filed or mailed to the Court and sent to Class Counsel and American's Counsel (at addresses included in the Long Form Notice), filed/postmarked no later than the Opt-Out and Objection Date, and must include the following:

- The name, address, telephone number of the Person objecting and, if represented by counsel, of his/her counsel;

- A statement that he or she is a member of one or both of the Settlement Classes and paid checked baggage fees on or after February 24, 2017 for tickets purchased on or before April 8, 2020;
- A statement of all objections to the Settlement;
- the identity of all counsel who represent the objector in this matter, including any former or current counsel who may be entitled to compensation for any reason related to the objection; and
- A statement of whether he or she intends to appear at the Fairness Hearing, either with or without counsel, and if with counsel, the name of his or her counsel who will attend.

B. Any Settlement Class Member who fails to file and serve a timely written objection pursuant to this Section and as detailed in the Long Form Notice shall not be permitted to object to the approval of the Settlement at the Fairness Hearing and shall be foreclosed from seeking any review of the Settlement or the terms of the Settlement Agreement by appeal or other means.

C. A Person within one or both of the Settlement Class definitions who wishes to opt out of the Settlement must complete and send to the Settlement Administrator a request for exclusion that is post-marked no later than the Opt-Out and Objection Date. The request for exclusion must be personally signed by the Person requesting exclusion and must contain a statement that indicates his or her desire to be excluded from the Settlement. Opt-outs shall be permitted on an individual basis only. So-called “mass” or “class” opt-outs, whether filed by third parties on behalf of a “mass” or “class” of class members or multiple class members where no personal statement has been signed by each and every individual class member, shall not be allowed.

D. Except for those members of the Settlement Classes who timely and properly file a request for exclusion, all members of the Settlement Classes will be deemed to be Settlement Class

Members for all purposes under the Settlement Agreement, and upon the Effective Date, will be bound by its terms, regardless of whether they file a Claim Form or receive any monetary relief.

E. Any member of the Settlement Classes who properly opts out of the Settlement shall not: (i) be bound by the Final Order and Judgment relating to the Settlement; (ii) be entitled to relief under, or be affected by, the Settlement Agreement; (iii) gain any rights by virtue of the Settlement Agreement; or (iv) be entitled to object to the Settlement.

F. Aside from the Settlement Class Members themselves, so long as appropriate documentation is provided to the Settlement Administrator, objections and requests for exclusion may be submitted by the parent or Court-appointed guardian of a Settlement Class Member who is a minor, by the executor or administrator of a Settlement Class Member's estate, by the Court-approved guardian for a Settlement Class Member or for a Settlement Class Member for whom you have a signed power of attorney.

G. If a Settlement Class Member submits both a timely and valid request for exclusion and an objection, the Settlement Class Member shall be treated as if they had only submitted a request for exclusion.

H. The Settlement Administrator shall provide Class Counsel and American's Counsel with periodic reports about Opt-Out requests and shall provide them with a final Opt-Out List within fourteen (14) Days after the Opt-Out and Objection Date.

XI. PRELIMINARY APPROVAL PROCESS AND CLASS NOTICE

A. After execution of this Settlement Agreement, Plaintiffs shall promptly move the Court for a Preliminary Approval Order substantially in the form attached as Exhibit H hereto, preliminarily approving the Settlement and directing implementation of the Settlement Class Notice Program. The Preliminary Approval Order will:

- o Preliminarily approve this Settlement Agreement.

- Find that the proposed Settlement is sufficiently fair, reasonable and adequate to warrant providing notice to the Settlement Classes, which notice will: (i) describe the essential terms of the Settlement; (ii) provide information regarding the request for service awards payable to the class representatives; (iii) provide information regarding the request for an Attorneys' Fee Award; (iv) indicate the time and place of the Fairness Hearing, and the method for objection to and/or opting out of the Settlement; (v) explain the procedures for allocating and distributing the Total Claim Amount; and (vi) prominently display the toll-free telephone number and address of Settlement Administrator and Class Counsel and the procedure for making inquiries.
- Schedule a Fairness Hearing on final approval of this Settlement and Settlement Agreement to consider the fairness, reasonableness and adequacy of the proposed Settlement and whether it should be finally approved by the Court.
- Appoint the Settlement Administrator.
- Approve the Settlement Class Notice Program, including the proposed methods and form of notice, and direct the Settlement Administrator to implement class notice in accordance with the Settlement Class Notice Program.
- Find that the Settlement Class Notice Program: (i) is the best practicable notice; (ii) is reasonably calculated, under the circumstances, to apprise the Settlement Classes of the pendency of the Litigation and of their right to object to or to exclude themselves from the proposed Settlement; (iii) is reasonable and constitutes due, adequate and sufficient notice to all Persons entitled to receive notice; and (iv) meets all requirements of applicable law, including due process.

- Require the Settlement Administrator to file a declaration certifying compliance with the Settlement Class Notice Program prior to the Fairness Hearing.
- Approve the proposed processes for submitting claims, including the Claim Form, and set a Claim Deadline.
- Require any member of the Settlement Classes who wishes to exclude himself or herself from the Settlement to submit an appropriate, timely request for exclusion, postmarked no later than the Opt-Out and Objection Date, or as the Court may otherwise direct, in compliance with Section X, Paragraph C.
- Order that any member of the Settlement Classes who does not submit a timely, written request for exclusion from the Settlement (*i.e.*, becomes an Opt-Out) will be bound by all further proceedings, orders and judgments in the Litigation.
- Require any Settlement Class Member who does not become an Opt-Out and who wishes to object to the fairness, reasonableness or adequacy of this Settlement or Settlement Agreement to file their objection with the Court and serve on Class Counsel and American's Counsel no later than the Opt-Out and Objection Date, or as the Court may otherwise direct, in compliance with Section X, Paragraph C.
- Set a deadline of at least seven (7) Days prior to the Fairness Hearing to file any response to any objection(s).
- Specify that any Settlement Class Member who does not file a timely written objection to the Settlement or who fails to otherwise comply with applicable requirements shall be foreclosed from seeking any adjudication or review of this Settlement by appeal or otherwise.
- Require that any attorney, hired by a Settlement Class Member for the purpose of objecting to the proposed Settlement, the Attorneys' Fee Award or the Incentive

Award and who intends to make an appearance at the Fairness Hearing, shall provide to the Settlement Administrator (who shall forward it to Class Counsel and American's Counsel) and file with the Clerk of the Court a notice of intention to appear no later than the Opt-Out and Objection Date or as the Court may otherwise direct.

- Require any Settlement Class Member who files and serves a written objection and who intends to make an appearance at the Fairness Hearing to so state in their objection papers or as the Court otherwise may direct.
- Direct the Settlement Administrator to establish a post office box and email address in the name of the Settlement Administrator to be used for receiving requests for exclusion and any other communications, and providing that only the Settlement Administrator, Class Counsel, American's Counsel, the Court, the Clerk of the Court and their designated agents shall have access to this post office box, except as otherwise provided in this Settlement Agreement.
- Direct that Class Counsel shall file their applications for the Attorneys' Fee Award and Plaintiff's Incentive Award at least thirty (30) Days prior to the Opt-Out and Objection Date.
- Order the Settlement Administrator to provide the final Opt-Out List to Class Counsel and American's Counsel no later than seven (7) Days after the Opt-Out and Objection Date and then file with the Court the Opt-Out List with an affidavit attesting to the completeness and accuracy thereof no later than seven (7) Days before the Fairness Hearing.
- Preliminarily enjoin all members of the Settlement Classes unless and until they have timely excluded themselves from the Settlement from (i) filing, commencing,

prosecuting, intervening in or participating as plaintiff, claimant or class member in any other lawsuit or administrative, regulatory, arbitration or other proceeding in any jurisdiction based on, or arising out of, the Released Claims; and (ii) filing, commencing, participating in or prosecuting a lawsuit or administrative, regulatory, arbitration or other proceeding as a class action on behalf of any member of the Settlement Classes who has not timely excluded himself or herself (including by seeking to amend a pending complaint to include class allegations or seeking class certification in a pending action), based on or arising out of the Released Claims.

- o Contain any additional provisions agreeable to the Parties that might be necessary or advisable to implement the terms of this Settlement Agreement and the proposed Settlement.

XII. FINAL ORDER AND JUDGMENT AND RELEASES

A. If this Settlement Agreement (including any modification thereto made with the consent of the Parties as provided for herein) is approved by the Court following the Fairness Hearing, the Parties shall request the Court to enter a Final Order and Judgment pursuant to the Federal Rules of Civil Procedure and all applicable laws sufficiently in the form provided in Exhibit I that, among other things:

- Finds that the Court has personal jurisdiction over Plaintiffs and all Settlement Class Members that have not timely requested exclusion and that the Court has subject matter jurisdiction to approve this Settlement and Settlement Agreement and all exhibits thereto;
- Grants final approval to this Settlement Agreement as being fair, reasonable and adequate as to all Parties and Settlement Class

Members and consistent and in compliance with all requirements of due process and applicable law and directs the Parties and their counsel to implement and consummate this Settlement Agreement in accordance with its terms and provisions and Court orders;

- Declares this Settlement Agreement and the Final Order and Judgment to be binding on and have *res judicata* and preclusive effect in all pending and future lawsuits or other proceedings encompassed by the Release set forth in Section XII, Paragraph B;
- Finds that the Settlement Class Notice Program: (1) constituted the best practicable notice in compliance with Fed. R. Civ. P. 23(c) and (e); (2) constituted notice that was reasonably calculated under the circumstances to apprise the Settlement Classes of the pendency of the Litigation, of their right to object to or exclude themselves from the proposed Settlement, of their right to appear at the Fairness Hearing and of their right to seek monetary and other relief; (3) constituted reasonable, due, adequate and sufficient notice to all Persons entitled to receive notice; and (4) met all requirements of due process and any other applicable law;
- Finds that Class Counsel and Plaintiffs adequately represented the Classes for purposes of entering into and implementing the Settlement and Settlement Agreement;
- Dismisses the Litigation on the merits and with prejudice and without fees or costs except as provided herein, in accordance with the terms of the Final Order and Judgment;

- Adjudges that Plaintiffs and the Settlement Class Members who have not timely and validly requested exclusion have conclusively compromised, settled, dismissed and released any and all Released Claims against American and the Released Persons;
- Approves payment of the Attorneys' Fee Award and Service Awards as determined by the Court (this may be included in a separate Order);
- Without affecting the finality of the Final Order and Judgment for purposes of appeal, reserves jurisdiction over the Settlement Administrator, American, Plaintiffs and the Settlement Class Members who have not timely and validly requested exclusion as to all matters relating to the administration, consummation, enforcement and interpretation of the terms of the Settlement, the Settlement Agreement and Final Order and Judgment (and any separate order, if separate, regarding the Attorneys' Fee Award and/or Service Awards) and for any other necessary purposes;
- Provides that upon the Effective Date, Plaintiffs and all Settlement Class Members who have not timely and validly requested exclusion, whether or not they return a Claim Form within the time and in the manner provided for, shall be subject to the Release set forth in Section XII, Paragraph B and barred from asserting Released Claims against American and the other Released Parties;
- Determines that the Settlement Agreement and the Settlement provided for therein and any proceedings taken pursuant thereto are

not and should not in any event be offered or received as evidence of, a presumption, concession or an admission of liability or of any misrepresentation or omission in any statement or written document approved or made by American or any Released Persons; provided, however, that reference may be made to this Settlement Agreement and the Settlement provided for therein in such proceedings solely as may be necessary to effectuate the Settlement Agreement;

- Bars and permanently enjoins all Settlement Class Members from (1) filing, commencing, prosecuting, intervening in or participating (as class members or otherwise) in any other lawsuit or administrative, regulatory, arbitration or other proceeding in any jurisdiction based on, relating to or arising out of the claims and causes of action or the facts and circumstances giving rise to the Litigation and/or the Released Claims; and (2) organizing Class Members who have not excluded themselves from the Settlement into a separate class for purposes of pursuing as a purported class action any lawsuit or arbitration or other proceeding (including by seeking to amend a pending complaint to include class allegations or seeking class certification in a pending action) based on, relating to or arising out of the claims and causes of action or the facts and circumstances giving rise to the Litigation and/or the Released Claims, except that Class Members are not precluded from participating in any investigation or suit initiated by a state or federal agency;

- Approves the Opt-Out List and determines that the Opt-Out List is a complete list of all members of the Settlement Classes who have timely requested exclusion from the Settlement and, accordingly, shall neither share in nor be bound by the Final Order and Judgment; and Authorizes the Parties, without further approval from the Court, to agree to and adopt such amendments, modifications and expansions of this Settlement Agreement and all exhibits hereto as (1) shall be consistent in all material respects with the Final Order and Judgment; and (2) do not limit the rights of the Parties or Settlement Class Members.

B. As of the Effective Date, the Releasing Persons are deemed to have fully released and forever discharged the Released Persons of and from all Released Claims by operation of entry of the Final Order and Judgment.

C. Nothing in the Releases shall preclude any action to enforce the terms of this Settlement Agreement, including participation in any of the processes detailed herein.

XIII. WITHDRAWAL FROM OR TERMINATION OF SETTLEMENT

A. Within fifteen (15) Days after the occurrence of any of the following events and upon written notice to counsel for all Parties, a Party shall have the right to withdraw from the Settlement and terminate this Settlement Agreement:

- (i) the Court rejects, materially modifies, materially amends or changes, or declines to preliminarily or finally approve the Settlement, except that a reduction in the Attorneys' Fee Award or the Service Award shall not be deemed to be a material alteration;

(ii) an appellate court reverses the Final Approval Order, and the Settlement is not reinstated without material change by the Court on remand;

(iii) prior to the Effective Date, the Court incorporates into, or deletes or strikes from, or modifies, amends, or changes, the Preliminary Approval Order, Final Approval Order, or the Settlement in a way that is material, unless such modification or amendment is accepted in writing by all Parties; however after entry of the orders granting preliminary approval and final approval, respectively, a Party shall have ten (10) business days to provide notice in writing to the other Party that it considers a Court to have made a material change that triggers termination under this Sub-Paragraph, and if no such notice is provided shall waive any such claim that the Court made a material change that triggers this Sub-Paragraph; or

(iv) the Effective Date does not occur.

B. In the event of a withdrawal pursuant to Section XIII, Paragraph A above, the stay in this matter shall be lifted, without prejudice to any Party's position on the amenability of the claims asserted in the Litigation, the Parties shall be restored to their litigation position existing immediately before the execution of this Settlement Agreement, and all of American's obligations under this Settlement Agreement, except its obligation to pay Notice and Administration Costs already incurred, shall cease to be of any force and effect.

C. If members of the Settlement Classes properly and timely submit requests for exclusion from the Settlement thereby becoming Opt-Outs in a number exceeding 10% of the Settlement Class Notice List, then American may elect in its sole discretion to withdraw from the Settlement and terminate this Settlement Agreement. In that event, all of American's obligations under this Settlement Agreement, except its obligation to pay the Notice and Administrative Costs already incurred, shall cease to be of any force and effect; and American shall be restored to its litigation

position existing immediately before the execution of this Settlement Agreement without prejudice. In order to elect to withdraw from the Settlement and terminate this Settlement Agreement on the basis set forth in this Section XIII, Paragraph C, American must notify Class Counsel in writing of its election to do so within fourteen (14) Days after the Opt-Out List has been served on the Parties. In the event that American exercises such right, Class Counsel shall have, at their discretion, fourteen (14) Days or such longer period as agreed to by the Parties to address the concerns of the Opt-Outs. If, through such efforts, the total number on the Opt-Out List subsequently becomes and remains fewer than the number submitted to the Court under seal at the time of filing the Motion For Preliminary Approval, American shall withdraw its election to withdraw from the Settlement and to terminate the Settlement Agreement. In no event, however, shall American have any further obligation under this Agreement to any Opt-Out unless it withdraws its request for exclusion. For purposes of this Paragraph, Opt-Outs shall not include (1) Persons who are specifically excluded from the definition of the Settlement Classes; (2) Opt-Outs who elect to withdraw their request for exclusion; (3) Opt-Outs who agree to sign an undertaking that they will not pursue an individual claim, class claim or any other claim that would otherwise be a Released Claim as defined in this Settlement Agreement; and (4) invalid opt-outs as set forth in Section X, Paragraph C above.

D. In the event of termination of the Settlement Agreement by any Party in accordance with the terms set forth in this Section, the Settlement Agreement shall be null and void, shall have no further force and effect with respect to any Party in the Litigation and shall not be offered in evidence or used in any litigation for any purpose. In the event of such withdrawal, this Settlement Agreement and all negotiations, proceedings, documents prepared and statements made in connection herewith shall be without prejudice to American, Plaintiffs and the Settlement Class Members and shall not be deemed or construed to be an admission or confession in any way by any Party of any fact, matter or proposition of law and shall not be used in any manner for any purpose, and the Parties

to the Litigation shall stand in the same position as if this Settlement Agreement had not been negotiated, made or filed with the Court.

E. Before terminating this Settlement Agreement pursuant to any of the provisions of Section XIII herein, the Parties shall have a duty to negotiate with each other in good faith, to attempt to cure the defect and seek approval of the modified Settlement.

XIV. EFFECTIVE DATE

A. The Effective Date of this Settlement Agreement shall be the date when each and all of the following conditions have occurred:

(i) This Settlement Agreement has been fully executed by all Parties and their counsel;

(ii) The Court has granted preliminary approval of this Settlement and approved the forms of class notice and Claim Form, as set forth above;

(iii) The Class Notice Program has been executed in substantial accordance with the Preliminary Approval Order;

(iv) The Court has entered a Final Order and Judgment finally approving this Agreement, as provided above; and

(v) The Final Order and Judgment has become Final as defined in Section XIV, Paragraph B below.

B. “Final,” when referring to a judgment or order means that (i) the Final Order and Judgment is a final, appealable judgment; and (ii) either: (a) the time to appeal from the Court’s Final Order and Judgment has expired and no appeal has been taken; or (b) if a timely appeal of the Court’s Final Order and Judgment is taken and if the Final Order and Judgment has not been reversed in any way, the date on which the Final Order and Judgment is no longer subject to further direct appellate review.

C. If, for any reason, this Settlement Agreement fails to become Final pursuant to the foregoing Section XIV, Paragraph B, the orders, judgment and dismissal to be entered pursuant to this Settlement Agreement shall be vacated, and the Parties will be returned to the status *quo ante* with respect to the Litigation as if this Settlement Agreement had never been entered into, except that American shall remain liable to pay all Notice and Administration Costs already incurred.

XV. NOTICES

A. All notices (other than the Class Notice and CAFA Notices) required by the Settlement Agreement shall be made in writing and communicated by mail or email to the following addresses:

All notices to the Settlement Classes or Class Counsel shall be sent to Class Counsel, c/o:

Oren S. Giskan
Giskan Solotaroff & Anderson LLP
90 Broad St., 2nd Floor
New York, NY 10004
ogiskan@gslawny.com

Joseph S. Tusa
Tusa P.C.
P.O. Box 566
55000 Main Road, 2nd Floor
Southold, NY 11971
joseph.tusapc@gmail.com

Roger Heller
Lieff, Cabraser, Heinmann & Bernstein, LLP
275 Battery Street, 29th Fl.
San Francisco, CA 94111-3339
rheller@lchb.com

All notices to American or American's Counsel provided herein shall be sent to American's Counsel, c/o:

U. Gwyn Williams
David C. Tolley
Samuel A. Townsend
Latham & Watkins LLP
200 Clarendon Street, 27th Floor
Boston, MA 02116
gwyn.williams@lw.com

david.tolley@lw.com
samuel.townsend@lw.com

B. The notice recipients and addresses designated above may be changed by written notice.

C. Upon the request of any of the Parties, the Parties agree to promptly provide each other with copies of comments, objections, requests for exclusion, or other documents or filings received as a result of the Class Notice.

XVI. MISCELLANEOUS PROVISIONS

A. **Interpretation.** This Settlement Agreement contains the entire agreement among the Parties hereto and supersedes any prior discussions, agreements or understandings among them as well as any and all prior drafts of this Settlement Agreement. All terms are contractual. For the purpose of construing or interpreting this Settlement Agreement, the Parties agree that the Settlement Agreement is to be deemed to have been drafted equally by all Parties hereto and shall not be construed strictly for or against any Party, and the Parties further agree that any prior drafts may not be used to construe or interpret this Settlement Agreement.

B. **Binding Effect.** The terms are and shall be binding upon each of the Parties hereto, their administrators, agents, assigns, attorneys, executors, heirs, partners, representatives, predecessors-in-interest and successors as well as upon all other Persons claiming any interest in the subject matter hereto through any of the Parties hereto including any Settlement Class Members.

C. **Headings.** The headings contained in this Settlement Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Settlement Agreement.

D. **No Rescission on Grounds of Mistake.** The Parties acknowledge that they have made their own investigations of the matters covered by this Settlement Agreement to the extent they have deemed it necessary to do so. Therefore, the Parties agree that they will not seek to set aside any part

of the Settlement Agreement on the grounds of mistake. Moreover, the Parties understand, agree and expressly assume the risk that any fact not recited, contained, or embodied in the Settlement Agreement may turn out hereinafter to be other than, different from, or contrary to the facts now known to them or believed by them to be true, and further agree that the Settlement Agreement shall be effective in all respects notwithstanding and shall not be subject to termination, modification, or rescission by reason of any such difference in facts.

E. **Amendment.** This Settlement Agreement may be amended or modified only by a written instrument signed by the Parties or their counsel. Amendments and modifications may be made without notice to the Settlement Classes unless notice is required by law or by the Court.

F. **Integration Of Exhibits.** Any exhibits to this Settlement Agreement are hereby incorporated and made a part of the Settlement Agreement.

G. **Jurisdiction.** The United States District Court for the Northern District of Texas has jurisdiction over the Parties to this Settlement Agreement and the Settlement Classes. The Court shall retain continuing and exclusive jurisdiction over the Parties to this Settlement and all Settlement Class Members for purposes of the administration and enforcement of this Settlement.

H. **No Admission.** Neither this Settlement Agreement nor any of its provisions, its exhibits or related documents (including but not limited to drafts of the Settlement Agreement, the Preliminary Approval Order or the Final Order and Judgment), its negotiation or any proceedings relating in any way to the Settlement shall be construed as or deemed to be evidence of an admission or concession by any person, including American, and shall not be offered or received in evidence, or subject to discovery, in this or any other action or proceeding except in an action brought to enforce its terms or except as may be required by law or Court order. The provisions of this Paragraph shall become effective when this Settlement Agreement has been signed by the Parties and shall be binding on the Parties and their counsel regardless of whether the Settlement Agreement is approved by this

Court or any other court and regardless of whether the Settlement Agreement is otherwise rendered null and void.

I. **Governing Law.** This Settlement Agreement shall be governed by and construed in accordance with the internal laws (as opposed to the conflicts of law provisions) of the State of Texas.

J. **Counterparts.** This Settlement Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to constitute one and the same instrument. A signed copy of this Settlement Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Settlement Agreement.

K. **No Media Statements.** Except as described in Section VIII, Paragraph M above, American, American's Counsel, Plaintiffs, Class Counsel and all other counsel of record for Plaintiffs agree not to issue any press releases regarding this settlement or publicize it in any way and further agree not to engage in any communications with the media or the press, on the internet, or in any public forum, orally or in writing, that relate to this Settlement or the Litigation other than statements that are fully consistent with the Class Notice. Nothing in this paragraph, or elsewhere in this Settlement Agreement, shall prevent Class Counsel from: discharging their duties to Settlement Class Members; discussing the Settlement with Plaintiffs, Settlement Class Members, or the Court; disclosing public information about the case on a resume, *curriculum vitae*, firm website, in other promotional materials, or in future legal filings; or responding to government inquiries

L. **Confidentiality.** All agreements made and orders entered during the course of the Litigation relating to the confidentiality of information shall survive this Settlement Agreement.

M. **Return Of Material.** Within thirty (30) Days after the Effective Date, Class Counsel and American's Counsel will return or destroy all material produced by one to the other in discovery or otherwise in connection with the Litigation.

N. **No Assignment.** Plaintiffs represent and warrant that no portion of any claim, right, demand, action, or cause of action against the Released Persons that Plaintiffs have or may have arising out of any allegations made in any of the actions comprising the Litigation or pertaining to any of the Released Claims, and no portion of any recovery or settlement to which Plaintiffs may be entitled, has been assigned, transferred, or conveyed by or for Plaintiffs in any manner; and no Persons other than Plaintiffs have any legal or equitable interest in the claims, demands, actions, or causes of action referred to in this Agreement as those of Plaintiffs.

O. **Stay.** The Parties stipulate to stay all proceedings in the Litigation, except for proceedings related to the Settlement, until the approval of this Settlement Agreement has been finally determined, except the stay of proceedings shall not prevent the filing of any motions, affidavits and other matters necessary to obtain and preserve final judicial approval of this Settlement Agreement.

P. **Best Efforts.** In the event that there are any developments in the effectuation and administration of this Agreement that are not dealt with by the terms of this Agreement, then such matters shall be dealt with as agreed upon by the Parties, and failing agreement, as shall be ordered by the Court. The Parties shall execute all documents and use their best efforts to perform all acts necessary and proper to promptly effectuate the terms of this Agreement and to take all necessary or appropriate actions to obtain judicial approval of this Agreement in order to give this Agreement full force and effect. The execution of documents must take place prior to the date scheduled for the Preliminary Approval Hearing.

IN WITNESS WHEREOF, the Parties have executed and caused this Agreement to be executed by their duly authorized representatives below.

Plaintiffs:

William Cleary

By: WILLIAM J. Cleary, JR.
WILLIAM J. Cleary, JR. (Oct 18, 2022 11:45 EDT)

Filippo Ferrigni

By: Filippo Ferrigni
Filippo Ferrigni (Oct 14, 2022 10:02 CDT)

Approved as to form:

GISKAN, SOLOTAROFF & ANDERSON LLP

By: _____

Oren S. Giskan
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New York, NY 10004
T: (212) 847-8315
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San Francisco, CA 94111-3339
Telephone: (415) 956-1000

Plaintiffs:

William Cleary

By: _____

Filippo Fernini

By: _____

Approved as to form:

GISKAN, SOLOVAROFF & ANDERSON LLP

By: _____

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eyerly@dbelegal.com

Counsel for Plaintiffs

American Airlines, Inc.

By:  _____

Its: Chief Legal Officer _____

Approved as to form:

LATHAM & WATKINS LLP

By: _____

U. Gwyn Williams

David C. Tolley

Kenneth J. Parsigian

LATHAM & WATKINS LLP

John Hancock Tower, 27th Floor

200 Clarendon Street

Boston, MA 02116

Telephone: (617) 948-6000

Counsel for American Airlines, Inc.

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200 Clarendon Street

Boston, MA 02116

Telephone: (617) 948-6000

Counsel for American Airlines, Inc.

EXHIBIT A

www.bagfeesettlement.com

Checked Bag Refund Claim Form

Your Signed Claim Form Must Be Submitted Online or Mailed and Postmarked By [MM DD, YYYY], Or You Will Not Receive Money from this Settlement.

American Airlines' computerized records indicate that you may have been incorrectly charged fees for checked bags.

To get a Refund from this settlement, you must complete and mail this Claim Form, or you can submit your claim online at **www.bagfeesettlement.com**. The deadline to submit a claim is **[MM DD, YYYY]**. American will use its records to verify whether your baggage charge meets the criteria.

Refunds for verified claims will range from **\$25.00 to \$200.00** for **each** checked bag.

Please verify your contact information:

Name: John Smith

Email: johnsmith@gmail.com

Address: 123 Main Street
Anywhere, XX 12345

Frequent flyer numbers¹: AA A1235B

If your contact information above is blank, inaccurate, or incomplete, please provide the correct information below.

Name: _____

Email: _____

Address: _____

Frequent flyer number¹ (Optional) _____

If American verifies that you are owed a Refund, please indicate whether you prefer to receive your Refund by check mailed to you or by electronic transfer to your PayPal account:

Check ☐ **PayPal** ☐ PayPal account email address (if selected): _____

Further communications related to this Settlement Agreement will be by email (if applicable), but if you prefer to be contacted by postal mail, please check here: ☐

Print Name: _____

Date: _____

Signature: _____

¹ You do not have to have a frequent flyer number to be entitled to a Refund. If you have one or more frequent flyer number(s) associated with your travel on American Airlines at any time since February 24, 2017, please fill in those numbers, as this will help American process your Claim. Frequent flyer numbers can include American Airlines AAdvantage, the various programs operated by OneWorld partners, and Alaska Airlines Mileage Plan. If you have used more than one frequent flyer number on your travel with American Airlines, please provide all such numbers.

RETURN YOUR COMPLETED CLAIM FORM TO:

[Insert Claims Administrator's email and U.S. Mail return addresses either at top or bottom of the form. Also the reverse side of the printed form should be addressed to the Claims Administrator, postage prepaid.]

EXHIBIT B

PERSONAL ID: #####

PIN: ####

CLEARY V. AMERICAN AIRLINES SETTLEMENT

****YOU MAY BE ENTITLED TO A PAYMENT OF \$25 TO \$200 IF YOU FILE A CLAIM****

You are receiving this Notice because American Airlines may have incorrectly charged you to check bags and you may be entitled to a full refund based on a class action settlement. Refunds will range from \$25.00 to \$200.00 for each charged bag.

You must file a claim by [DATE] to receive a payment

To file a claim click here

Read this notice or visit www.bagfeesettlement.com or call [#####] for more information.

A federal court authorized this notice. This is not a solicitation from a lawyer. You are not being sued.

*Para información en español, visite
www.bagfeesettlement.com*

What is this notice about? A proposed settlement has been reached in a class action lawsuit. The lawsuit claims that American Airlines incorrectly charged certain customers fees to check their baggage. American denies the allegations in the lawsuit, and the Court did not

decide who is right. The case is called *Cleary, et al. v. American Airlines, Inc.*, No. 4:21-cv-00184-O (N.D. Tex).

Who is included? The “Settlement Classes” include American customers who were charged checked baggage fees inconsistent with representations made by American after February 24, 2017 for tickets purchased prior to April 9, 2020. The full definitions of the Settlement Classes are in the settlement agreement and Long Form Notice, available at www.bagfeesettlement.com. You are receiving this notice because American’s records indicate that you may be in the Settlement Classes.

What can I get? Under the proposed settlement, American will refund 100% of baggage fees to Settlement Class Members who file a verified claim. American will pay at least \$7.5 million total to those Settlement Class Members who file a verified claim. Refunds will range from \$25.00 - \$200.00 for each charged checked bag if the settlement is approved and becomes final.

How do I get a payment? **You must file a claim by [deadline] to receive a Refund.** You can file a claim online by clicking **here** or you can fill out and mail a hard copy claim form, available at www.bagfeesettlement.com.

What are my options? 1) File a claim by the deadline. This is the only way to get a Refund. 2) If you do not want to be a part of this Settlement, you must opt out by **Month DD, 202X**. If you opt out, you will not receive a Refund, but you will be able to file your own lawsuit against American Airlines about the same claims this Case resolves. 3) If you do not opt out, you may object to the Settlement or any part of it by **Month DD, 202X**. 4) You can do nothing, and you will give up any right to get a Refund from this Settlement or be part of any other lawsuit against American about the same baggage charges at issue and will be bound by judgments in this case. A detailed Long Form Notice is available at www.bagfeesettlement.com explains how to opt out or object.

Who represents me? The Court appointed Giskan Solotaroff & Anderson LLP, Tusa P.C.A., and Lieff Cabraser Heimann and Bernstein

LLP as “Class Counsel” to represent the Settlement Classes. You will not be charged for these lawyers’ services. Their attorneys’ fees and costs will be paid by American and will not reduce Refunds paid to Settlement Class Members. If you want to be represented by another lawyer, you may hire one at your own expense.

What happens next? A Fairness Hearing will be held on **Month DD, 202X**, at the U.S. District Court for the Northern District of Texas, Eldon B. Mahon Courthouse, Courtroom **[□]**, 501 West 10th Street, Fort Worth, TX 76102-3673. At this hearing, the Court will consider whether: 1) the Settlement is fair, reasonable, and adequate; and 2) to approve attorneys’ fees and expenses to Plaintiffs’ Counsel up to \$2,850,000 and service awards of up to \$10,000 each to the two plaintiffs who brought this case on behalf of the Settlement Classes. **You do not have to come to this hearing**, even if you submitted a claim for a Refund. The date and time of this hearing may change without further notice, and/or the Court could order that this hearing be held remotely or telephonically. Check www.bagfeesettlement.com for updates.

How do I get more information? For more information, including to view copies of case documents, the full settlement agreement, the complaint in the lawsuit, American’s Answer, and Class Counsel’s fee application (once it is filed), visit www.bagfeesettlement.com. You can also call toll-free **1-888-888-8888**, or email the Settlement Administrator at **email@email.com**.

EXHIBIT C

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS

You May Be Entitled to a Refund of Baggage Fees From American Airlines Under a Class Action Settlement

PLEASE READ THIS NOTICE CAREFULLY

THIS NOTICE RELATES TO A CLASS ACTION LAWSUIT. IF YOU ARE A MEMBER OF THE SETTLEMENT CLASSES (defined below), THIS NOTICE CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS

A federal court directed this notice. This is not a solicitation from a lawyer. You are not being sued.

A Settlement has been reached in a class action lawsuit alleging that American Airlines, Inc. (“American”) incorrectly charged certain passengers to check their bags. American denies the allegations in the lawsuit, and the Court has not decided who is right. The Settlement Agreement and other important documents are available for review at www.bagfeesettlement.com.

Settlement Class Members who **file claims** by the claims deadline will be eligible to receive a Refund from the Settlement. **Refunds will range from \$25.00 to \$200.00 for each charged checked bag. Only Settlement Class Members who file claims by the claims deadline will receive Refunds.** (See Questions 7 through 10 below for more detail, including about how to file a claim)

Your legal rights are affected whether you act or do not act. Read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
FILE A CLAIM	File a claim online or by mail no later than XXXX . This is the only way to get a Refund. See Questions 7 through 10 below.
EXCLUDE YOURSELF	Request to be excluded from the Settlement (sometimes called “opting out”) and receive no payment from the Settlement. This is the only option that allows you to separately sue American for the same claims or be part of any another lawsuit against American about the legal claims covered by the Settlement. The deadline to exclude yourself is XXXX . See Question 11 below for details.
OBJECT OR COMMENT ON THE SETTLEMENT	Object or comment on the Settlement by XXXX . See Question 17 for details. You do not have to comment or object and submitting a comment or objection is not a substitute for filing a claim to receive a Refund
DO NOTHING	Get no payment. Give up your right to be part of this Settlement, or any other lawsuit against American about the same legal claims covered by this Settlement.

These rights and options—and the deadlines to exercise them—are explained in this notice.

The Court still must decide whether to approve the Settlement. If it does, and after any appeals are resolved, payments will be distributed to those who file timely and valid claims. Please be patient.

QUESTIONS? CALL [●] OR GO TO www.bagfeesettlement.com

WHAT THIS NOTICE CONTAINS

A. BASIC INFORMATION.....	PAGE 3
1. Why is there a notice?	
2. What is this case about?	
3. Why is this a class action?	
4. Why is there a settlement?	
B. WHO IS PART OF THE SETTLEMENT.....	PAGE 4
6. Who is included in the Settlement?	
C. WHAT YOU MAY GET FROM THE SETTLEMENT	PAGE 5
7. What does the Settlement provide?	
8. How do I get a Refund?	
9. What happens after I file my claim?	
10. When will I receive my payment?	
D. EXCLUDING YOURSELF FROM THE SETTLEMENT	PAGE 8
11. How do I exclude myself from the Settlement?	
12. If I do not exclude myself, can I sue American for the Checked Bag Fees later?	
13. If I exclude myself, can I still get a payment?	
14. What am I giving up in order to get a Refund?	
E. THE LAWYERS REPRESENTING THE CLASSES	PAGE 9
15. Do I have a lawyer in the case?	
16. How will the lawyers be paid?	
F. OBJECTING OR COMMENTING ON THE SETTLEMENT.....	PAGE 10
17. How do I object or comment?	
18. What is the difference between objecting and asking to be excluded?	
G. THE FAIRNESS HEARING	PAGE 11
19. When and where will the Court decide whether to approve the Settlement?	
20. Do I have to attend the hearing?	
21. May I speak at the hearing?	
H. IF YOU DO NOTHING	PAGE 11
22. What happens if I do nothing at all?	
I. GETTING MORE INFORMATION.....	PAGE 12
23. How do I get more information?	

A. BASIC INFORMATION

1. Why is there a notice?

This notice is to inform you about the proposed Settlement of a class action lawsuit and your rights and options. This notice describes the lawsuit, the proposed Settlement, your legal rights, payments (“Refunds”) that are available as a result of the Settlement, and who can get them.

District Court Judge Reed C. O’Connor of the United States District Court for the Northern District of Texas is overseeing the proposed Settlement in the case titled *Cleary, et al. v. American Airlines, Inc.*, No. 4:21-cv-00184-O (the “Case”). The proposed Settlement will resolve the claims made against American in the Case on behalf of all Settlement Class Members who do not request exclusion. The people who sued are called the “Plaintiffs.” American is the “Defendant.”

2. What is this case about?

This Case alleges that American incorrectly charged certain customers baggage fees after February 23, 2017 for tickets purchased before April 9, 2020 (“Case Timeframe”), breaching American’s contract with these customers. When customers buy tickets from American for air travel, a contract is formed in which American promises certain customers that they can check a certain number of their bags for no charge, depending on route of travel, cabin of service, frequent flyer status or other reasons. This Case alleges that during the Case Timeframe, American breached its contract with Settlement Class Members by charging them to check one or more of their bags despite promises that they could do so for no charge. American denies that it breached its agreements with its customers or that it did anything wrong. The Petition in this Case and American’s Answer are available at www.bagfeesettlement.com.

The Settlement resolves the lawsuit. The Court has not decided who is right.

3. Why is this a class action?

In a class action, one or more people called “Class Representatives” (in this Case, Plaintiffs William Cleary and Filippo Ferrigni) sue on behalf of themselves and people who have similar claims. Together, all of those people are members of the “Settlement Classes” (see Question 5 below). The Court has certified this lawsuit as a class action.

4. Why is there a Settlement?

The Court has not decided in favor of Plaintiffs or American. Instead, both sides have agreed to a settlement. That way, they avoid the cost and risk of a trial, and if the Settlement is approved by the Court, Settlement Class Members will receive the Refunds described in this notice.

B. WHO IS PART OF THE SETTLEMENT

5. Who is included in the Settlement?

The Settlement Classes consists of all people who:

1. traveled on American Airlines (“American”);
2. were charged to check a bag after February 23, 2017 for tickets issued prior to April 9, 2020 (the “Case Timeframe”); and
3. meets the criteria of either or both subsections (a) and (b) below:
 - a. received an email confirming purchase of the air travel (a “Confirmation Email”) that stated that passengers could check one or more bag for that ticketed trip for no charge or for “USD0.00”; or
 - b. held an American Citi or Barclay’s credit card entitling the passenger to check a first bag for free and were traveling within the United States. This includes passengers on international itineraries who were charged to check a first bag, of standard weight and size, for the entirely domestic portion of such itineraries in addition to the international portions of those itineraries.

Those American passengers who meet the above criteria are Settlement Class Members and have claims for Refunds.

Excluded from the Settlement Classes are (a) American and its respective parents, subsidiaries, divisions, affiliates, associated entities, business units, predecessors in interest, successors, successors in interest and representatives and each of their respective immediate family members; (b) Class Counsel (defined below); and (c) the Judges who have presided over the Litigation and any related cases.

C. WHAT YOU MAY GET FROM THE SETTLEMENT

6. What does the Settlement provide?

Refunds will be sent to all Settlement Class Members who file timely and verified Claims. Each Settlement Class Member who files a timely and verified Claim will receive a 100% refund of all charged baggage fees during the Case Timeframe.

In no event will American pay less than \$7,500,000.00 in total payments to Settlement Class Members under the Settlement. If the total baggage fees for all timely and verified Claims is less than \$7,500,000.00, then the payments to Settlement Class Members who submitted timely and verified Claims will be increased on a *pro rata* basis, meaning they will each receive greater than 100% refunds of the baggage charges at issue.

QUESTIONS? CALL [●] OR GO TO www.bagfeesettlement.com

Any Settlement Class Member who was charged to check his or her bag(s) on multiple different occasions during the Case Timeframe is eligible to receive a refund for each of those charges if they submit a timely and verified Claim.

Each baggage charge will only be refunded once. For example, if you should have been entitled to check a bag at no charge both because you had elite frequent flyer status and also because you purchased a ticket in a premium cabin, you may only recover the overcharged amount for that bag once.

7. How do I get a Refund?

To receive a Refund, you must **file a claim** by no later than **XXXXX**.

8. How do I file a claim?

File Online: To file a claim online, visit **[WEBSITE]** and complete and electronically submit a Claim Form.

File By Mail: Or, if you received notice of this Settlement by mail you can fill out the postage prepaid claim form that is attached to that notice and mail it to the address listed on the form. If you did not receive a Claim Form by mail, you can print a paper claim form, available at **[WEBSITE]**, fill it out, and mail it to the address listed on the form.

Claims must be filed online or postmarked by no later than **XXXX**.

If you are the executor or administrator of a Settlement Class Member's estate, see the instructions at www.bagfeesettlement.com explaining how to file a claim for the estate.

9. What happens after I submit a claim form?

American will provide Refunds to Settlement Class Members only if they timely submit a Claim Form. Once a Claim Form is submitted, American will check its computer records to verify that the person submitting the Claim is a Settlement Class Member entitled to a Refund, and determine the Settlement Class Member's Refund amount.

There may be circumstances in which a person who submits a Claim Form will not be entitled to a Refund. For example, American could review its records and determine that the person submitting the Claim Form does not meet the criteria above in Question 5. Similarly, a Settlement Class Member may have already been refunded by American for all charged baggage fees, and, therefore, would not be entitled to receive a Refund through this process.

Prior to receiving payment, the Settlement Administrator will inform you of your Refund. If you do not agree with the Refund amount or the determination that you are not entitled to a Refund, you have the opportunity to dispute the decision.

9. When will I receive my payment?

Payments for timely and Valid Claims will be made if the Court grants final approval of the Settlement and the Settlement becomes final. We do not know how long that will take. Please be patient.

D. EXCLUDING YOURSELF FROM THE SETTLEMENT

10. How do I exclude myself from the Settlement?

If you want to exclude yourself from the Settlement and preserve your claims against American for the claims that are covered by the Settlement, you must request exclusion (or “out-out”) of the Settlement. If you exclude yourself, you are not eligible to receive a Refund or to object to the Settlement, but you will retain the right to bring claims against American for the claims covered by the Settlement.

To opt-out of the Settlement, you must mail or email a request for exclusion to:

[SETTLEMENT ADMINISTRATOR ADDRESS/EMAIL ADDRESS]

To be effective, your request for exclusion must be postmarked or emailed no later than [DATE], and must include the following information:

- The name of this case (*Cleary et al. v. American Airlines*);
- A statement that you desire to be excluded from the Settlement; and
- Your personal signature

You cannot opt out by phone, or in any other way other than as described in this Question 10.

You may opt out of the Settlement only for yourself, a minor child, as the executor or administrator of a Settlement Class Member’s estate, Court-approved guardian or for a Settlement Class Member for whom you have a signed power of attorney.

11. If I do not exclude myself, can I sue American for the Checked Bag Fees later?

No. Unless you opt out pursuant to the instructions in Question 10, you give up any right you might have to sue American for the same checked bag fees covered by this Settlement. The claims you are giving up (“releasing”) are described in detail in the settlement agreement, available at www.bagfeesettlement.com.

12. If I exclude myself, can I still get a payment?

No. If you opt out, you are not eligible to receive a Refund under the Settlement.

F. OBJECTING OR COMMENTING ON THE SETTLEMENT

QUESTIONS? CALL [●] OR GO TO www.bagfeesettlement.com

15. How do I object or comment?

If you are a Settlement Class Member (and do not opt out of the Settlement), you can object or comment on the Settlement or any part of it. To be considered, your objection or comment must be filed or mailed with the Court at the address listed below, and must also be mailed to the Settlement Administrator, Class Counsel, and American's Counsel at the addresses listed below, and must include the following:

1. Your name, address, telephone number, and email address (if you have one); and, if represented by counsel, the name, address and telephone number of your counsel;
2. A statement that you are a member of the Settlement Classes and paid checked baggage fees on or after February 24, 2017 for tickets purchased on or before April 8, 2020;
3. A statement of all your objections to the Settlement
4. The identity of all counsel who represent you in this matter, including any former or current counsel who may be entitled to compensation for any reason related to the objection; and
5. A statement of whether you intend to appear at the Fairness Hearing, either with or without counsel, and if with counsel, the name, address, and telephone number of your counsel who will attend.

To be considered, your objection must be filed/postmarked by no later than **XXXX**.

<u>The Court</u> United States District Court 501 West 10th Street, Room 310 Fort Worth, TX 76102-3673	<u>Settlement Administrator</u> [ADD ADDRESS]	<u>Class Counsel</u> Oren S. Giskan Giskan Solotaroff & Anderson LLP 90 Broad St., 2nd Floor New York, NY 10004	<u>American's Counsel</u> U. Gwyn Williams David C. Tolley Samuel A. Townsend Latham & Watkins LLP 200 Clarendon St. 27 th Floor Boston, MA 02116
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16. What is the difference between objecting and asking to be excluded?

Objecting is telling the Court that you do not like something about the Settlement. You can object to the Settlement only if you do not opt out. If you object you are still eligible to receive a Refund under the Settlement if you submit a Valid Claim Form. Opting out is telling the Court that you do not want to be part of the Settlement. If you opt out, you have no basis to object to the Settlement because it no longer affects you.

E. THE LAWYERS REPRESENTING THE CLASSES.

QUESTIONS? CALL [●] OR GO TO www.bagfeesettlement.com

13. Do I have a lawyer in the case?

Yes. The Court has appointed Giskan Solotaroff & Anderson LLP, Tusa P.C., and Lieff Cabraser Heimann & Bernstein LLP as “Class Counsel” to represent you and all other Settlement Class Members.

You will not be charged for these lawyers’ services. Their attorneys’ fees and costs awarded by the Court will be paid to Class Counsel directly by American and will not reduce the Refunds provided to Settlement Class Members under the Settlement. If you want to be represented by another lawyer, you may hire one at your own expense.

14. How will the lawyers be paid?

Class Counsel will ask the Court to award up to \$2,850,000.00 for attorneys’ fees and to reimburse reasonable expenses they incurred in the Case. In addition, Class Counsel will ask the Court to award each of the two Plaintiffs representing the Settlement Classes service awards of up to \$10,000.00 each to compensate them for their efforts and commitment on behalf of the Settlement Classes in this lawsuit. Any attorneys’ fees, expenses, and service awards awarded by the Court will be paid by American separate from (*i.e.*, on top of), and will not reduce, the Refunds paid to Settlement Class Members under the Settlement.

The Court will determine the amount of attorneys’ fees, expenses, and service awards to award. Class Counsel’s application for attorneys’ fees, expenses, and service awards will be available at www.bagfeesettlement.com after it is filed.

G. THE COURT’S FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the Settlement and Class Counsel’s requests for attorneys’ fees, expenses, and service awards for the Plaintiffs (“Fairness Hearing”).

17. When and where will the Court decide whether to approve the Settlement?

The Court has scheduled a Fairness Hearing on [●], at the U.S. District Court for the Northern District of Texas, Eldon B. Mahon Courthouse, Courtroom [□], 501 West 10th Street, Fort Worth, TX 76102-3673 to consider whether to finally approve the Settlement. **Settlement Class Members do not have to attend the Fairness Hearing.** The date and time of this hearing may change without further notice, and/or the Court could order that this hearing be held remotely or telephonically. Check www.bagfeesettlement.com for updates. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will also consider the requests by Class Counsel for an award of attorneys’ fees and expenses and for service awards for the Plaintiffs. If there are timely objections, the Court will consider them at that time. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long this will take.

18. Do I have to attend the hearing?

No. Class Counsel will answer any questions the Court may have. But, you are welcome to attend the hearing at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you submitted your written objection on time, to the proper addresses, and it complies with the other requirements listed in Question 15 above, the Court will consider it. You also may pay your own lawyer to attend the hearing, but it is not necessary.

19. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, your filed objection must include a statement that you intend to appear at the Fairness Hearing (See Question 15 above). You cannot speak at the hearing if you opt out of the Settlement.

H. IF YOU DO NOTHING

20. What happens if I do nothing?

If you are a Settlement Class Member and do nothing, you will get no payment from the Settlement and you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit, arbitration or proceeding against American about the checked bag fees covered by this Settlement, and you will be bound by judgments in this case.

I. GETTING MORE INFORMATION

21. How do I get more information?

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. For more information visit www.bagfeesettlement.com, write the Settlement Administrator at: Settlement Administrator, PO Box XXXX, City, State XXXXX-XXXX, or call the toll-free number, 1-8XX-XXX-XXXX. You may also call Class Counsel at [●], or email Class Counsel at [●].

EXHIBIT D

Cleary v. American Airlines Settlement
c/o [Settlement Administrator]
[PO Box XXXXX]
[Address]

PRE-SORTED
FIRST-CLASS
MAIL
AUTO
U.S. POSTAGE
PAID

A federal court authorized this notice. This is **not** a solicitation from a lawyer.

****YOU MAY BE ENTITLED TO A PAYMENT OF \$25 TO \$200
IF YOU FILE A CLAIM****

You must file a claim by [DATE] to receive a payment

To **file a claim** or to get more information, visit www.bagfeesettlement.com

Questions? Visit
www.bagfeesettlement.com or call
[#####]

Para información en español, visite **XXX**

Unique ID: <MAILER ID>
<IMB>
<Name>
<Address1>
<Address2>
<City>, <State> <Zip>
<Country>

PERSONAL ID: #####, PIN: ####

You are receiving this Notice because American Airlines may have incorrectly charged you to check bags and you may be entitled to a full refund based on a class action settlement. Refunds will range from \$25.00 to \$200.00 for each charged bag. **YOU MUST FILE A CLAIM TO GET A REFUND******

A federal court authorized this notice. This is not a solicitation from a lawyer. You are not being sued.

What is this notice about? A proposed settlement has been reached in a class action lawsuit. The lawsuit claims that American Airlines incorrectly charged certain customers fees to check their baggage. American denies the allegations in the lawsuit, and the Court did not decide who is right. The case is called *Cleary, et al. v. American Airlines, Inc., No. 4:21-cv-00184-O (N.D. Tex.)*.

Who is included? The “Settlement Classes” include American customers who were charged checked baggage fees inconsistent with representations made by American after February 24, 2017 for tickets purchased prior to April 9, 2020. The full definitions of the Settlement Classes are in the settlement agreement and Long Form Notice, available at www.bagfeesettlement.com. You are receiving this notice because American’s records indicate that you may be in the Settlement Classes.

What can I get? Under the proposed settlement, American will refund 100% of baggage fees to Settlement

Class Members who file a verified claim. American will pay at least \$7.5 million total to those Settlement Class Members who file a verified claim. Refunds will range from \$25.00 - \$200.00 for each charged checked bag if the settlement is approved and becomes final.

How can I receive a payment? You must file a claim by [deadline] to receive a Refund. You can file a claim online at **[claim form URL]** or you can fill out the removable, postage prepaid Claim Form that is attached to this Notice.

What are my options? 1) File a claim by the deadline. This is the only way to get a Refund. 2) If you do not want to be a part of this Settlement, you must opt out by **Month DD, 202X**. If you opt out, you will not receive a Refund, but you will be able to file your own lawsuit against American Airlines about the same claims this Case resolves. 3) If you do not opt out, you may object to the Settlement or any part of it by **Month DD, 202X**. 4) You can do nothing, and you will give up any right to

get a Refund from this Settlement or be part of any other lawsuit against American about the same baggage charges at issue and will be bound by judgments in this case. A detailed Long Form Notice, available at www.bagfeesettlement.com, explains how to opt out or object.

Who represents me? The Court appointed Giskan Solotaroff & Anderson LLP, Tusa P.C.A., and Lief Heimann and Bernstein LLP as “Class Counsel” to represent the Settlement Classes. You will not be charged for these lawyers’ services. Their attorneys’ fees and costs will be paid by American and will not reduce Refunds paid to Settlement Class Members. If you want to be represented by another lawyer, you may hire one at your own expense.

What happens next? A Fairness Hearing will be held on **Month DD, 202X**, at the U.S. District Court for the Northern District of Texas, Eldon B. Mahon Courthouse, Courtroom [●], 501 West 10th Street, Fort Worth, TX 76102-3673. At this hearing, the Court will consider whether: 1) the Settlement is fair, reasonable, and adequate; and 2) to approve attorneys’ fees and expenses to Plaintiffs’ Counsel up to \$2,850,000 and service awards of up to \$10,000 each to the two plaintiffs who brought this case on behalf of the Settlement Classes. **You do not have to come to this hearing**, even if you submitted a claim for a Refund. The date and time of this

hearing may change without further notice, and/or the Court could order that this hearing be held remotely or telephonically. Check www.bagfeesettlement.com for updates.

Where can I get more information? For more information, including to view copies of case documents, the full settlement agreement, the complaint in the lawsuit, American’s Answer, and Class Counsel’s fee application (once it is filed), visit www.bagfeesettlement.com. You can also call toll-free **1-888-888-8888**, or email the Settlement Administrator at email@email.com.

[ADD REMOVABLE POSTAGE PRE-PAID CLAIM FORM]

EXHIBIT E

PERSONAL ID: #####

PIN: ####

CLEARY V. AMERICAN AIRLINES SETTLEMENT

*A federal court authorized this notice. This is **not** a solicitation from a lawyer. You are not being sued.*

**** REMINDER: YOU MAY BE ENTITLED TO A PAYMENT OF \$25 TO \$200 IF YOU FILE A CLAIM ****

FILE YOUR CLAIM BY [DATE] TO RECEIVE A PAYMENT

We are writing to remind you that you are eligible to file a claim for a payment of \$25.00 to \$200.00 for each checked bag fee as part of a class action settlement regarding baggage fees charged by American Airlines.

To receive a payment, you must file a claim by [DATE]. The process is easy and can be completed online. You can file your claim by clicking this link:

[CLAIM LINK]

For more information about the settlement, visit www.bagfeesettlement.com or call **XXX-XXX-XXXX**.

EXHIBIT F

Cleary v. American Airlines Settlement
c/o [Settlement Administrator]
[PO Box XXXXX]
[Address]

PRE-SORTED
FIRST-CLASS
MAIL
AUTO
U.S. POSTAGE
PAID

A federal court authorized this notice. This is **not** a solicitation from a lawyer.

****REMINDER: YOU MAY BE ENTITLED TO A PAYMENT OF \$25 TO \$200 IF YOU
FILE A CLAIM****

FILE YOUR CLAIM BY [DATE] TO RECEIVE A PAYMENT

**Questions? Visit www.bagfeesettlement.com or
call [#####]**

Para información en español, visite
www.bagfeesettlement.com

Unique ID: <MAILER ID>
<IMB>
<Name>
<Address1>
<Address2>
<City>, <State> <Zip>
<Country>

PERSONAL ID: #####, PIN: ###

We are writing to remind you that you are eligible to file a claim for a payment of \$25.00 to \$200.00 for each charged bag fee as part of a class action settlement regarding baggage fees charged by American Airlines.

To receive a payment, you must file a claim by [DATE]. The process is easy. You can file a claim online at [\[claim form URL\]](#) or you can fill out the removable, postage prepaid Claim Form that is attached to this Notice.

For more information about the settlement, visit www.bagfeesettlement.com or call [XXX-XXX-XXXX](tel:XXX-XXX-XXXX).

ADD REMOVABLE POSTAGE PRE-PAID CLAIM FORM

EXHIBIT G

Parties Announce Settlement of American Airlines Baggage Fee Class Action

NEW YORK, [REDACTED], 202[REDACTED] /PRNewswire/ --

The parties announce the settlement of a class action lawsuit in the U.S. District Court for the Northern District of Texas against Defendant American Airlines (“American”) The lawsuit is called *Cleary, et al., v. American Airlines, Inc.* Case No. 21- cv-00184 (the “Lawsuit”).

What is this about? A proposed settlement has been reached in a class action lawsuit. The Lawsuit claims that American incorrectly charged certain customers fees to check their baggage. American denies the allegations in the lawsuit, and the Court did not decide who is right.

Who is included? The “Settlement Classes” include American customers who were charged checked baggage fees inconsistent with representations made by American after February 24, 2017 for tickets purchased prior to April 9, 2020. The full definitions of the Settlement Classes are in the Settlement Agreement and Long Form Notice, available at www.bagfeesettlement.com.

What can class members get under the settlement? Under the proposed settlement, American will refund 100% of baggage fees to Settlement Class Members who file a verified claim. American will pay at least \$7.5 million total to those Settlement Class Members who file a verified claim. Refunds will range from \$25.00 - \$200.00 for each charged checked bag if the settlement is approved and becomes final. Only eligible customers who file verified claims will receive a Refund.

How do I get a payment? You must file a claim by [deadline] to receive a Refund. You can file a claim online at [\[CLAIM FORM URL\]](#) or you can fill out and mail a hard copy claim form, available at www.bagfeesettlement.com.

What are my options if I am a Settlement Class Member? 1) File a claim by the deadline. This is the only way to get a Refund. 2) If you do not want to be a part of this settlement, you must opt out by Month DD, 202X. If you opt out, you will not receive a Refund, but you will be able to file your own lawsuit against American about the same claims this Case resolves. 3) If you do not opt out, you may object to the settlement or any part of it by Month DD, 202X. 4) You can do nothing, and you will give up any right to get a Refund from this settlement or be part of any other lawsuit against American about the same baggage charges at issue and will be

bound by judgments in this case. The detailed Notice available at www.bagfeesettlement.com explains how to opt out or object.

Who represents the Settlement Classes? The Court appointed Giskan Solotaroff & Anderson LLP, Tusa P.C.A., and Lieff Cabraser Heimann and Bernstein LLP as “Class Counsel” to represent the Settlement Classes. Settlement Class Members will not be charged for these lawyers’ services. Their attorneys’ fees and costs will be paid by American and will not reduce Refunds paid to Settlement Class Members. If you want to be represented by another lawyer, you may hire one at your own expense.

What happens next? A Fairness Hearing will be held on Month DD, 202X, at the U.S. District Court for the Northern District of Texas, Eldon B. Mahon Courthouse, Courtroom [☐], 501 West 10th Street, Fort Worth, TX 76102-3673. At this hearing, the Court will consider whether: 1) the settlement is fair, reasonable, and adequate; and 2) to approve attorneys’ fees and expenses to Plaintiffs’ Counsel up to \$2,850,000 and service awards of up to \$10,000 each to the two Plaintiffs who brought this case on behalf of the Settlement Classes. **You do not have to come to this hearing**, even if you submit a claim for a Refund. The date and time of this hearing may change without further notice, and/or the Court could order that this hearing be held remotely or telephonically. Check www.bagfeesettlement.com for updates.

How do I get more information? For more information, including to view copies of case documents, the full settlement agreement, the complaint in the lawsuit, American’s Answer, and Class Counsel’s fee application (once it is filed), visit www.bagfeesettlement.com. You can also call toll-free 1-888-888-8888, or email the Settlement Administrator at email@email.com.

PLEASE DO NOT CONTACT THE COURT REGARDING THIS NOTICE.

SOURCE: Giskan Solotaroff & Anderson LLP

EXHIBIT H

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

Katherine M. Cleary, *et al.*, individually and
on behalf of others similarly situated,

Plaintiffs,

v.

American Airlines, Inc.,

Defendant.

Civil Action No. 4:21-cv-00184-O

Hon. Reed O'Connor, USDJ

Hon. Hal R. Ray, Jr., USMJ

**[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF CLASS
SETTLEMENT AND DIRECTING DISSEMINATION OF CLASS NOTICE**

Before the Court is the Motion for Preliminary Approval of Class Settlement and Direction of Notice Pursuant to Fed. R. Civ. P. 23(e) (“Motion”), filed by Plaintiffs and Certified Class Representatives William Cleary and Filippo Ferrigni (“Plaintiffs”). Plaintiffs and Defendant American Airlines, Inc. (“American”), collectively the “Parties,” have entered into a Class Settlement Agreement and Release, dated October 14, 2022 (“Settlement Agreement”). Having thoroughly reviewed the Settlement Agreement, including the proposed forms of class notice and other exhibits thereto, the Motion, and the papers and arguments in connection therewith, and good cause appearing, the Court hereby ORDERS as follows:

1. Capitalized terms not otherwise defined herein have the meanings set forth in the Settlement Agreement.

2. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1332(d), and has personal jurisdiction over the Parties and the Settlement Class Members. Venue is proper in this District.

3. The Motion is GRANTED.

4. The Court hereby preliminarily approves the Settlement Agreement and the terms embodied therein pursuant to Fed. R. Civ. P. 23(e)(1). The Court finds that it will likely approve the Settlement Agreement under Fed. R. Civ. P. 23(e)(2) and certify the Settlement Classes for purposes of judgment on the proposed Settlement. The Court preliminarily finds that the Settlement Agreement is fair, reasonable, and adequate as to the Settlement Class Members under the relevant considerations.

- a. The Court finds that Plaintiffs and Class Counsel have adequately represented, and will continue to adequately represent, the Settlement Classes.
- b. The Court further finds that the Settlement Agreement is the product of arms’ length negotiations by the Parties with the assistance of an experienced mediator, Clay Cogman of Phillips ADS, and comes after significant litigation, including

the certification of two litigation classes, completed discovery, rulings on summary judgment and pre-trial motions and submissions.

- c. The proposed Settlement provides that American will refund 100% of all At-Issue Baggage Fees to Settlement Class Members who submit timely, valid claims. AA will pay no less than \$7.5 million in refunds to the Settlement Classes. If, six months after disbursement of all Refunds, any funds remain in the Settlement Account—*e.g.*, if some Class Members did not deposit or cash their checks—then: if American paid more than \$7.5 million into the Settlement Account, the remaining funds in the Settlement Account, up to the amount American paid on top of \$7.5 million, will be returned to American; otherwise, the remaining funds in the Settlement Account will be distributed to Valid Claimants for whom Refund payments were effectuated if there are sufficient remaining funds to warrant such a distribution, or if not will be distributed *cy pres* to recipients agreed on by the Parties.
- d. The Court preliminarily finds that this Settlement relief is fair, reasonable and adequate taking into account, *inter alia*, the costs, risks, and delay of trial and appeal for all Parties, the legal issues presented in this Action, the interests of the proposed Settlement Classes, and the proposed method of distributing payments to the Settlement Classes (*i.e.*, direct payments by checks or electronic means).
- e. The Court preliminarily finds that the Settlement Agreement treats the Settlement Class Members equitably relative to each other, and that the proposed allocation of settlement funds to Settlement Class Members is reasonable and equitable. Under the terms of the Settlement Agreement, all Settlement Class Members are eligible to submit claims for 100% Refunds of their individual At-Issue Baggage Fees via a simple claim form.
- f. The Court will fully assess any request for attorneys' fees and litigation expenses after receiving a motion from Class Counsel supporting such request, which will

be paid by American in addition to and separate from Refunds paid to claiming Settlement Class Members. At this stage, the Court finds that the plan to request fees and litigation expenses to be paid separate and apart from the Refunds paid to Settlement Class Members is reasonable and should not delay providing notice to the Settlement Classes as approved herein.

5. The Court approves the “Settlement Classes,” which comprise the two classes certified by this Court’s September 2, 2021 Order (ECF No. 66), as modified by this Court’s July 22, 2022 Order resolving American’s summary judgment motion (ECF No. 190). The Credit Card Settlement Class shall consist of:

- a. American-branded Citibank or Barclay’s partner credit card holders entitling them to free checked baggage who were required to pay to check one or more such bags on domestic itineraries on or after February 24, 2017 for tickets purchased on or before April 8, 2020 (for the removal of doubt, this includes passengers on layovers on international itineraries who were charged a second time to check bags for domestic portions of those itineraries); and (b) either were sent Mail Notice or Email Notice of the Settlement or otherwise submit a Valid Claim related to At-Issue Baggage Fees covered by subpart (a) of this definition.

The Email Confirmation Settlement Class shall consist of:

- a. American ticket holders who both: (a) received email confirmation that in its body (and not merely in documents incorporated by reference) promised them one or more checked bags at no charge or for “USD0.00” and were thereafter required to pay to check one or more such bags on or after February 24, 2017 for tickets purchased on or before April 8, 2020; and (b) either were sent Mail Notice or Email Notice of the Settlement or otherwise submit a Valid Claim related to At-Issue Baggage Fees covered by subpart (a) of this definition.

6. The Court finds that the Settlement Classes satisfy the requirements of Fed. R. Civ. P. 23(a) and 23(b)(3) for the reasons stated in this Court’s order certifying substantially similar litigation classes. ECF No. 66.

7. The Court previously recognized Plaintiffs as class representatives for the certified classes. ECF No. 66. Plaintiff William Cleary is the class representative representing the Email Confirmation Settlement Class, and Plaintiff Filippo Ferrigni is the class representative representing the Credit Card Settlement Class.

8. The Court previously appointed Class Counsel to represent the Classes as follows: Oren S. Giskan of Giskan Solotaroff & Anderson LLP, Joseph S. Tusa of Tusa P.C., and Roger N. Heller of Lieff Cabraser Heimann & Bernstein, LLP. ECF No. 151.

9. The Court hereby appoints A.B. Data Ltd. as Settlement Administrator and directs A.B. Data Ltd. to carry out all duties and responsibilities of the Settlement Administrator as specified in the Settlement Agreement and herein.

10. Following entry of this Preliminary Approval Order, American shall pay reasonable Notice and Administration Costs as set forth in and arising as a result of the Settlement Agreement by making such payments directly to the Settlement Administrator as those costs are incurred and payment becomes due. American will bear all Notice and Settlement Administration Costs, in addition to (*i.e.*, on top of) American's payment of the Settlement Account amount. To the extent the Settlement Administrator pays any Notice or Settlement Administration Costs reasonably necessary to effectuate the Settlement Notice Plan, American shall reimburse the Settlement Administrator for such costs. The Settlement Administrator shall maintain detailed records of the costs spent on the administration of the Settlement and shall provide those and other administration fees to American's counsel upon request.

Notice Program

11. Pursuant to Fed. R. Civ. P. 23(e)(1) and 23(c)(2)(B), the Court approves the proposed Notice program set forth at Section VIII of the Settlement Agreement, including the form and content of the proposed forms of notice to the Settlement Classes attached as Exhibits B-F to the Settlement Agreement. The Notice Program includes: (i) Email Notice supplemented by reminder notices; (ii) Mail Notice supplemented by reminder notice; (iii) a case-specific Settlement Website that includes a downloadable Long Form Notice; (iv) Press Release; and (v) CAFA Notice.

12. The Court finds that the proposed Notice program meets the requirements of Due

Process under the United States Constitution and Rule 23; and that such Notice program is the best notice practicable under the circumstances and shall constitute due and sufficient notice to all persons entitled thereto. The Court further finds that the proposed form and content of the forms of the Notice are adequate and will give the Settlement Class Members sufficient information to enable them to make informed decisions as to the Settlement Classes, the right to object or opt out, and the proposed Settlement and its terms. The Court finds that the Notice clearly and concisely states in plain, easily understood language, *inter alia*: (i) the nature of the Action; (ii) the definitions of the Settlement Classes; (iii) the class claims and issues; (iv) that a Settlement Class Member may enter an appearance through an attorney if the member so desires; (v) that the Court will exclude from the Settlement Classes any member who timely and validly requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on Settlement Class Members under Rule 23(c)(3).

13. The Court directs the Settlement Administrator and the Parties to implement the Notice program as set forth in the Settlement Agreement.

14. Settlement Class Notice List: By no later than fourteen (14) days following entry of this Preliminary Approval Order, American shall provide the Settlement Class Notice List and accompanying information set forth in the Settlement Agreement to the Settlement Administrator.

15. Email Notice: By no later than thirty-five (35) Days after the Preliminary Approval Date, the Settlement Administrator will send the Email Notice (substantially in the form attached to the Settlement as Exhibit B) by email to all persons on the Settlement Class Notice List for whom an email address was provided by American or located by the Settlement Administrator.

16. Mail Notice: By no later than fifty (50) Days after the Preliminary Approval Date, the Settlement Administrator will mail the Mail Notice (substantially in the form attached to the Settlement as Exhibit D), including a removable Claim Form with prepaid postage (substantially in the form attached to the Settlement as Exhibit A), to all persons on the

Settlement Class Notice List who have yet to submit a Claim Form and for whom a mailing address was provided by American or located by the Settlement Administrator.

17. For any Mail Notices returned as undeliverable, the Settlement Administrator shall update addresses based on any forwarding information received from the United States Postal Service or otherwise located by the Settlement Administrator. The Settlement Administrator shall promptly re-mail any Mail Notices that are returned as non-deliverable with a forwarding address to such forwarding address. For Mail Notices that are returned undeliverable without a forwarding address, the Settlement Administrator shall perform skip tracing and shall re-mail Mail Notices to any new addresses identified through such skip-tracing.

18. Reminder Email Notices: No later than sixty (60) Days after the Preliminary Approval Date, the Settlement Administrator will email the Reminder Email Notice (substantially in the form attached to the Settlement as Exhibit E) to all individuals who were sent the Email Notice and who have yet to submit a Claim Form as of that time. No later than one hundred (100) Days after the Preliminary Approval Date the Settlement Administrator will email a second Reminder Email Notice to all individuals who were sent the Email Notice and who have yet to submit a Claim Form as of that time. The Parties, with input from the Settlement Administrator, will negotiate in good faith to determine whether a third Reminder Email Notice (to individuals who were sent the Email Notice and who have yet to submit a Claim Form as of one hundred fifteen (115) Days after the Preliminary Approval Date) is necessary.

19. Reminder Mail Notice: No later than one hundred (100) Days after the Preliminary Approval Date, the Settlement Administrator will mail the Reminder Mail Notice (substantially in the form attached to the Settlement as Exhibit F) to all individuals who were sent the Mail Notice and who have yet to submit a Claim Form as of that time.

20. Press Release: No earlier than the Notice Date and no later than seven (7) days after the Notice Date, Class Counsel shall issue a Press Release, substantially in the form attached to the Settlement as Exhibit G.

21. Settlement Website: The Settlement Administrator shall establish and maintain the Settlement Website, at the URL www.bagfeesettlement.com. The Settlement Website shall provide information and relevant documents related to this Settlement, including but not limited to, the following: applicable deadlines; a downloadable copy of the Long Form Notice in English and Spanish; the Email Notice in English and Spanish, the Mail Notice in English and Spanish; a Claim Form that may be submitted by U.S. Mail, a mechanism for Settlement Class Members to submit online Claim Forms electronically via the Settlement Website; orders of the Court pertaining to the Settlement; the Settlement Agreement; and contact address(es) for questions. Class Counsel and American's Counsel shall agree on all information and documents to be posted on the Settlement Website. The Claim Form shall be removed from the Settlement Website five (5) Days after the Claim Deadline has passed. The Settlement Website shall be operational no later than the day before the first notices are disseminated or published, and will be deactivated at a time agreed upon by the Parties. The Settlement Website shall be optimized for mobile device use.

22. Toll-Free Number: Within ten (10) Days after entry of this Preliminary Approval Order, the Settlement Administrator shall set up a toll-free telephone number for receiving toll-free calls related to the Settlement. Pre-recorded messages will be available in both English and Spanish languages. That telephone number shall be maintained and operational until thirty (30) Days after the last distribution of the Settlement Class Member Refunds.

23. By no later than fourteen days before the Fairness Hearing, the Settlement Administrator shall file (or provide to Settlement Class Counsel for filing) a declaration confirming that the Notice Program has been implemented in accordance with the Settlement Agreement and this Order (including CAFA notice) and providing the number of Claims received as of that time, the total dollar amount of the Claims received as of that time, and the number and identity of timely exclusion requests and objections received.

Claims Procedure

24. The Court approves the form and content of the proposed Claim Form, in the form attached as Exhibit A to the Settlement Agreement, approves the claims process set forth in Section IX of the Settlement Agreement for Settlement Class Members to submit Claims, and directs the Parties and the Settlement Administrator to implement such claims process.

25. The deadline for Class Members to file Claims shall be 125 days after the entry of this Order.

Opt-Out and Objection Procedures

26. A Person within one or both of the Settlement Class definitions who wishes to opt out of the Settlement must complete and send to the Settlement Administrator and the Parties' Counsel a request for exclusion that is post-marked no later than ninety (90) days after the entry of this Order (the Opt-Out and Objection Date). The request for exclusion must be personally signed by the Person requesting exclusion and must contain a statement that indicates his or her desire to be excluded from the Settlement. Opt-outs shall be permitted on an individual basis only. So-called "mass" or "class" opt-outs, whether filed by third parties on behalf of a "mass" or "class" of class members or multiple class members where no personal statement has been signed by each and every individual class member, shall not be allowed.

27. Except for those members of the Settlement Classes who timely and properly file a request for exclusion, all members of the Settlement Classes will be deemed to be Settlement Class Members for all purposes under the Settlement Agreement, and upon the Effective Date, will be bound by its terms, and will also be bound by all further proceedings, orders, and judgments in this Litigation, regardless of whether they file a Claim Form or receive any Refund.

28. Any member of the Settlement Classes who properly opts out of the Settlement shall not: (i) be bound by any Final Order and Judgment relating to the Settlement; (ii) be entitled to relief under, or be affected by, the Settlement Agreement; (iii) gain any rights by virtue of the Settlement Agreement; or (iv) be entitled to object to the Settlement.

29. Any Settlement Class Member who does not submit a timely and valid request for exclusion shall have the right to object to the proposed Settlement and/or to Settlement Class Counsel's motion for attorneys' fees, costs, or service awards, by complying with the objection provisions set forth herein. Objections shall be filed or mailed to the Court and sent to Class Counsel and American's Counsel (at addresses included in the Long Form Notice), filed/postmarked no later than ninety (90) days after the entry of this Order (the Opt-Out and Objection Date), and must include the following: (1) The name, address, telephone number of the Person objecting and, if represented by counsel, of his/her counsel; (2) A statement that he or she is a member of one or both of the Settlement Classes and paid checked baggage fees on or after February 24, 2017 for tickets purchased on or before April 8, 2020; (3) A statement of all objections to the Settlement; (4) the identity of all counsel who represent the objector in this matter, including any former or current counsel who may be entitled to compensation for any reason related to the objection; and (5) A statement of whether he or she intends to appear at the Fairness Hearing, either with or without counsel, and if with counsel, the name of his or her counsel who will attend. Only objections that are submitted in accordance with this paragraph shall be considered by the Court. Any Settlement Class Member who does not timely submit an objection in accordance with this paragraph, shall waive the right to object or to be heard at the Fairness Hearing and shall be forever barred from making any objection to the proposed Settlement or to Class Counsel's motion for attorneys' fees, costs, and service awards. Any Settlement Class Member who objects to the Settlement shall nevertheless be entitled to all benefits of the Settlement if it is approved and becomes final and s/he submits a valid Claim Form.

30. Any attorney, hired by a Settlement Class Member for the purpose of objecting to the proposed Settlement, the Attorneys' Fee Award or the Service Award and who intends to make an appearance at the Fairness Hearing, shall provide to the Settlement Administrator (who shall forward it to Class Counsel and American's Counsel) and file with the Clerk of the Court a notice of intention to appear no later than ninety (90) days after the entry of this Order (the Opt-

Out and Objection Date), or as the Court may otherwise direct.

31. The Settlement Administrator shall establish a post office box and email address in the name of the Settlement Administrator to be used for receiving requests for exclusion and any other communications, and providing that only the Settlement Administrator, Class Counsel, American's Counsel, the Court, the Clerk of the Court and their designated agents shall have access to this post office box, except as otherwise provided in the Settlement Agreement.

32. The Settlement Administrator shall provide Class Counsel and American's Counsel with periodic reports about Opt-Out requests and shall provide them with a final Opt-Out List within fourteen (14) Days after the Opt-Out and Objection Date. The Settlement Administrator shall file with the Court the Opt-Out List with an affidavit attesting to the completeness and accuracy thereof no later than seven (7) days before the Fairness Hearing.

Fairness Hearing

33. The Court will hold a Fairness Hearing on _____, 2022 at __:__, in the United States District Court for the Northern District of California, Room 201, 501 West 10th Street, Fort Worth, TX, 76102. The purposes of the Fairness Hearing will be to: (i) determine whether the proposed Settlement Agreement should be finally approved by the Court as fair, reasonable, adequate, and in the best interests of the Settlement Classes; (ii) determine whether judgment should be entered pursuant to the Settlement Agreement, dismissing the Action with prejudice and releasing all Released Claims; (iii) rule on Class Counsel's motion for attorneys' fees, costs, and service awards; (iv) consider any properly filed objections; and (v) consider any other matters necessary in connection with the final approval of the Settlement Agreement.

34. By no later than thirty (30) days before the Opt-Out and Objection Date, Plaintiffs and Class Counsel shall file their: (a) motion for final approval of the Settlement Agreement, requesting entry of the Final Order and Judgment; and (b) Attorneys' Fee Award and Plaintiffs'

Service Awards. Promptly after they are filed, these document(s) shall be posted on the Settlement Website.

35. By no later than seven (7) days before the Fairness Hearing, the Parties shall file any responses to any Settlement Class Member objections and any replies in support of final settlement approval and/or in support of Settlement Class Counsel's motion for attorneys' fees, costs, and service awards.

36. The Court may, in its discretion, modify the date and/or time of the Fairness Hearing, and may order that this hearing be held remotely or telephonically. In the event the Court changes the date, time, and/or the format of the Fairness Hearing, the Parties shall ensure that the updated information is posted on the Settlement Website.

37. Only Settlement Class Members who have submitted timely and valid objections, in accordance with the requirements of this Preliminary Approval Order, may be heard at the Fairness Hearing.

38. If, for any reason, this Settlement Agreement fails to become Final or receive approval from this Court, the orders, judgment and dismissal to be entered pursuant to this Settlement Agreement shall be vacated, and the Parties will be returned to the *status quo ante* with respect to the Litigation as if this Settlement Agreement had never been entered into, except that American shall remain liable to pay all Notice and Administration Costs already incurred.

39. Other than such proceedings as may be necessary to carry out the terms and conditions of the Settlement Agreement, all proceedings in the Action are hereby stayed and suspended until further order of this Court.

40. Pending final determination of whether the Settlement Agreement should be finally approved, Plaintiffs and all Settlement Class Members (unless and until they have timely excluded themselves from the Settlement) are barred and enjoined from: (i) filing, commencing, prosecuting, intervening in or participating as plaintiff, claimant, or class member in any other lawsuit or administrative, regulatory, arbitration, or other proceeding in any jurisdiction based on, or arising out of, the Released Claims; and (ii) filing, commencing, participating in, or

prosecuting a lawsuit or administrative, regulatory, arbitration, or other proceeding as a class action on behalf of any member of the Settlement Classes who has not timely excluded himself or herself (including by seeking to amend a pending complaint to include class allegations or seeking class certification in a pending action), based on or arising out of the Released Claims. This bar and injunction is necessary to protect and effectuate the Settlement Agreement and this Preliminary Approval Order, and this Court's authority to effectuate the Settlement, and is ordered in aid of this Court's jurisdiction.

41. This Preliminary Approval Order, the Settlement Agreement, and all negotiations, statements, agreements, and proceedings relating to the Settlement, or any matters arising in connection with settlement negotiations, proceedings, or agreements, shall not be construed as or deemed to be evidence of an admission or concession by any person, including American, and shall not be offered or received in evidence, or subject to discovery, in this or any other action or proceeding except in an action brought to enforce its terms or except as may be required by law or Court order.

42. The Court shall retain continuing and exclusive jurisdiction over the Parties to this Settlement and all Settlement Class Members for purposes of the administration and enforcement of this Settlement.

43. The Parties are directed to take all necessary and appropriate steps to establish the means necessary to implement the Settlement Agreement according to its terms should it be finally approved.

44. The Court may, for good cause, extend any of the deadlines set forth in this Preliminary Approval Order without further notice to Settlement Class Members. Without further order of the Court, the Parties may agree to make non-material modifications in implementing the Settlement that are not inconsistent with this Preliminary Approval Order.

45. The following chart summarizes the dates and deadlines set by this Preliminary Approval Order:

Last day for the Settlement Administrator to set up the Toll-Free Telephone Number and send CAFA Notice	10 days after entry of Preliminary Approval Order
Last day for American to provide the Settlement Class Notice List and related notice information to the Settlement Administrator	14 days after entry of Preliminary Approval Order
Last day for the Settlement Administrator to set up the Settlement Website	1 day before the Notice Date
Notice Date (Last day for the Settlement Administrator to send the Email Notice)	35 days after Preliminary Approval Date
Last day for the Settlement Administrator to send the Mail Notice	50 days after Preliminary Approval Date
Last day for the Settlement Administrator to send the first Reminder Email Notice	60 days after Preliminary Approval Date
Last day for Plaintiffs and Settlement Class Counsel to file motion for final approval of the Settlement, and motion for attorneys' fees, expenses and service awards	60 days after Preliminary Approval Date
Opt-Out and Objection Deadline	90 days after Preliminary Approval Date
Last day for the Settlement Administrator to send the second Reminder Email Notice and second Reminder Mail Notice	100 days after Preliminary Approval Date
Claims Deadline	125 days after Preliminary Approval Date
Last day for the Parties to file any responses to objections, and any replies in support of motion for final settlement approval and/or Settlement Class Counsel's application for attorneys' fees, expenses and service awards	7 days before Fairness Hearing
Fairness Hearing	[At least about 130 days after Preliminary Approval Order]

IT IS SO ORDERED.

Date: _____

Hon. Reed O'Connor
United States District Judge

EXHIBIT I

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

Katherine M. Cleary, *et al.*, individually and
on behalf of others similarly situated,

Plaintiffs,

v.

American Airlines, Inc.,

Defendant.

Civil Action No. 4:21-cv-00184-O

Hon. Reed O'Connor, USDJ

Hon. Hal R. Ray, Jr., USMJ

[PROPOSED] FINAL ORDER AND JUDGMENT

This matter came before the Court for hearing on _____, pursuant to the Court's Preliminary Approval Order dated _____ (Dkt. ____), and on the motion ("Motion"; Dkt. ____) for final approval of the Settlement Agreement entered into by the Parties dated October 14, 2022 (the "Settlement Agreement"; Dkt. ____), as well as Class Counsel's motion for an award of attorneys' fees, costs, and service awards (Dkt. ____). Due and adequate notice having been given to the Settlement Class Members of the proposed Settlement and the pending motions, as directed by the Court's Preliminary Approval Order, and upon consideration of all papers filed and proceedings had herein, and good cause appearing, the Court hereby ORDERS as follows:

1. Capitalized terms not otherwise defined herein have the meanings set forth in the Settlement Agreement.

2. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1332(d), and has personal jurisdiction over the Parties and all Settlement Class Members that have not timely requested exclusion. Venue is proper in this District.

3. The "Credit Card Settlement Class" for purposes of this Final Order and Judgment consists of:

a. American-branded Citibank or Barclay's partner credit card holders entitling them to free checked baggage who were required to pay to check one or more such bags on domestic itineraries on or after February 24, 2017 for tickets purchased on or before April 8, 2020 (for the removal of doubt, this includes passengers on layovers on international itineraries who were charged a second time to check bags for domestic portions of those itineraries); and (b) either were sent Mail Notice or Email Notice of the Settlement or otherwise submit a Valid Claim related to At-Issue Baggage Fees covered by subpart (a) of this definition

4. The "Email Confirmation Settlement Class" for purposes of this Final Order and Judgment consists of:

b. American ticket holders who both: (a) received email confirmation that in its body (and not merely in documents incorporated by reference) promised them one or more checked bags at no charge or for “USD0.00” and were thereafter required to pay to check one or more such bags on or after February 24, 2017 for tickets purchased on or before April 8, 2020; and (b) either were sent Mail Notice or Email Notice of the Settlement or otherwise submit a Valid Claim related to At-Issue Baggage Fees covered by subpart (a) of this definition.

5. Persons whose only claims arise from baggage fees released in *Bazerman v. American Airlines, Inc.*, Case No. 1:17-cv-11297-WGY (D. Mass. 2017) are excluded from these Settlement Classes, as are the Defendant and other Released Parties, Class Counsel and their employees, and this Court and its staff.

6. The Court finds that the notice provisions set forth under the Class Action Fairness Act, 28 U.S.C. § 1715, were complied with in this matter.

7. The Court finds that the Notice program for disseminating notice to the Settlement Classes, provided for in the Settlement Agreement and previously approved and directed by the Court, has been implemented by the Settlement Administrator and the Parties. The Court finds that such Notice program, including the approved forms of notice: (a) constituted the best notice that is practicable under the circumstances in compliance with Fed. R. Civ. P. 23(c) and (e); (b) included direct individual notice to all Settlement Class Members who could be identified through reasonable effort, as well as supplemental notice via a press release and reminder email and mail notices; (c) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Litigation, of their right to object to or exclude themselves from the proposed Settlement, of their right to appear at the Fairness Hearing and of their right to seek monetary and other relief; (3) constituted reasonable, due, adequate and sufficient notice to all Persons entitled to receive notice; and (4) met all requirements of due process and any other applicable law.

8. The Court hereby finds that all persons who fall within the definition of the Settlement Classes have been adequately provided with an opportunity to exclude themselves from the Settlement Classes by submitting a request for exclusion in conformance with the terms of the Settlement Agreement and this Court’s Preliminary Approval Order. All persons who submitted

timely and valid requests for exclusion are not bound by this Final Order and Judgment. A list of those persons who submitted timely and valid requests for exclusion is attached as Exhibit ____ (the “Opt-Out List”), and filed in this case at Dkt. _____. All other persons who fall within the definition of the Settlement Classes are Settlement Class Members and part of the Settlement Classes, and shall be bound by this Final Order and Judgment and the Settlement Agreement.

9. The Court reaffirms that this Litigation is properly maintained as a class action pursuant to Fed. R. Civ. P. 23(a) and 23(b)(3). The Court reaffirms its findings that the Settlement Classes, as defined above, each meet the requirements for class certification under Fed. R. Civ. P. 23(a) and 23(b)(3), for reasons this Court articulated when certifying the litigation classes. Dkt. 66.

10. The Court reaffirms its appointment of Plaintiffs as Class Representatives, and of Oren Giskan, Joseph Tusa, and Roger Heller as Class Counsel. Dkts. 66, 151.

11. The Court finds that the Settlement Agreement warrants final approval pursuant to Fed. R. Civ. P. 23(e)(2) because, the Court finds, the Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Settlement Classes, after weighing the relevant considerations.

a. First, the Court finds that Plaintiffs and Settlement Class Counsel have adequately represented the Settlement Classes, and will continue to do so through settlement implementation.

b. Second, the proposed Settlement Agreement was reached as a result of arms-length negotiations through an experienced mediator, Clay Cogman of Phillips ADS, and comes after significant litigation, and complete discovery.

c. Third, the Court finds that the relief proposed to be provided for the Settlement Class is fair, reasonable, and adequate, taking into account, inter alia: (i) the costs, risks, and delay of trial and appeal; (ii) the harm to the Settlement Class Members; (iii) the effectiveness of the proposed method of distributing relief to the Settlement Classes (via mailed checks and electronic payments); and (iv) the terms of the requested award of attorneys’ fees and costs.

12. Fourth, the Court finds that the Settlement Agreement treats Settlement Class Members equitably relative to each other, and that the proposed allocation of settlement funds to Settlement Class Members is reasonable and equitable. Under the terms of the Settlement Agreement, all Settlement Class Members are eligible to submit claims for 100% Refunds of their individual At-Issue Baggage Fees via a simple claim form.

13. In granting final approval of the Settlement Agreement, the Court has also considered the factors that courts in this Circuit consider in evaluating proposed class settlements, which overlap considerably with the factors to be considered under Fed. R. Civ. P. 23(e)(2). *See Churchill Village LLC v. General Electric Corp.*, 361 F.3d 566, 575 (9th Cir. 2004). The Court finds that those factors—including the strength of the plaintiffs’ case; the risk, expense, complexity, and likely duration of further litigation; the risk of maintaining class action status throughout the trial; the amount offered in settlement; the extensive discovery that was conducted and the stage of the litigation when the settlement was reached; the experience and views of counsel; and the lack of any objections by any governmental participant following the dissemination of notice under 28 U.S.C. § 1715—support granting final approval of the Settlement.

14. The Court finds that the reaction of the Settlement Class Members to the Settlement Agreement supports granting final approval of the Settlement Agreement. Following direct notice to the Settlement Class Members, there were ___ objections submitted and only ___ persons requested to be excluded from the Settlement Classes, while more than _____ claims for Refunds have been submitted.

15. The Motion is hereby GRANTED, and the Settlement Agreement and its terms are hereby found to be and are APPROVED as fair, reasonable, and adequate and in the best interest of the Settlement Classes. The Parties and Settlement Administrator are directed to consummate and implement the Settlement Agreement in accordance with its terms, including distributing settlement payments to the Settlement Class Members and other disbursements as provided by the Settlement Agreement.

16. This Litigation is hereby dismissed with prejudice and without costs to any Party, other than as specified in the Settlement Agreement, this Final Order and Judgment, and any order(s) by this Court regarding Settlement Class Counsel's motion for attorneys' fees, costs, and service awards.

17. In consideration of the benefits provided under the Settlement Agreement, and for other good and valuable consideration set forth in the Settlement Agreement, each of the Settlement Class Members who have not timely and validly requested exclusion, whether or not they returned a Claim Form, and all Releasing Persons, shall, by operation of this Final Order and Judgment, have fully, finally, and forever released, relinquished, acquitted, and discharged all Released Claims against all Released Persons in accordance with Section XII, Paragraph B of the Settlement Agreement, the terms of which section are incorporated herein by reference. The terms of the Settlement Agreement, which are incorporated by reference into this Final Order and Judgment, shall have res judicata and other preclusive effects as to the Released Claims against the Released Persons. The Released Persons may file the Settlement Agreement and/or this Final Order and Judgment in any other litigation to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good-faith settlement, judgment bar or reduction, or any similar defense or counterclaim.

18. All Settlement Class Members who have not requested exclusions and Releasing Persons have covenanted not to sue any Released Party with respect to any Released Claim and shall be permanently barred and enjoined from (1) filing, commencing, prosecuting, intervening in or participating (as class members or otherwise) in any other lawsuit or administrative, regulatory, arbitration or other proceeding in any jurisdiction based on, relating to or arising out of the claims and causes of action or the facts and circumstances giving rise to the Settlement and/or the Released Claims; and (2) organizing Settlement Class Members who have not excluded themselves from the Settlement into a separate class for purposes of pursuing as a purported class action any lawsuit or arbitration or other proceeding (including by seeking to amend a pending complaint to include class allegations or seeking class certification in a pending action) based on, relating to or

arising out of the claims and causes of action or the facts and circumstances giving rise to the Settlement and/or the Released Claims, except that Settlement Class Members are not precluded from participating in any investigation or suit initiated by a state or federal agency. This permanent bar and injunction are necessary to protect and effectuate the Settlement Agreement and this Final Order and Judgment, and this Court's authority to effectuate the Settlement, and are ordered in aid of this Court's jurisdiction and to protect its judgments. Notwithstanding the foregoing, nothing in this Final Order and Judgment shall preclude an action to enforce the terms of the Settlement Agreement.

19. Pursuant to the terms of the Settlement Agreement, Plaintiffs, Class Counsel, American, and American's Counsel have, and shall be deemed to have, released each other from any and all claims relating in any way to any Party or counsel's conduct in this Litigation, including but not limited to any claims of abuse of process, malicious prosecution, or any other claims arising out of the institution, prosecution, assertion or resolution of this Litigation, including claims for attorneys' fees, costs of suit, or sanctions of any kind except as otherwise expressly set forth in the Settlement Agreement.

20. The Court hereby approves the Opt-Out List and finds that the Opt-Out List is a complete list of all members of the Settlement Classes who have timely requested exclusion from the Settlement and, accordingly, shall neither receive a Refund in the Settlement nor be bound by the Final Order and Judgment.

21. The Court authorizes the Parties, without further approval from the Court, to agree to and adopt such amendments, modifications and expansions of this Settlement Agreement and all exhibits hereto as (1) shall be consistent in all material respects with the Final Order and Judgment; and (2) do not limit the rights of the Parties or Settlement Class Members.

22. This Final Judgment and Order is the final, appealable judgment in the Litigation as to all Released Claims.

23. Without affecting the finality of this Final Order and Judgment in any way, this Court retains jurisdiction over (a) implementation of the Settlement Agreement and the terms of

the Settlement Agreement; (b) Class Counsel's motion for attorneys' fees, costs, and service awards; (c) distribution of the settlement consideration, Class Counsel attorneys' fees and expenses, and any Plaintiff Service Awards; and (d) all other proceedings related to the implementation, interpretation, validity, administration, consummation, and enforcement of the terms of the Settlement Agreement. The time to appeal from this Final Order and Judgment shall commence upon its entry.

24. In the event that the Settlement Agreement Effective Date does not occur, this Final Order and Judgment shall be rendered null and void and shall be vacated, *nunc pro tunc*, except insofar as expressly provided to the contrary in the Settlement Agreement, and without prejudice to the *status quo ante* rights of Plaintiffs, Settlement Class Members, and American.

25. This Final Order and Judgment, the Preliminary Approval Order, the Settlement Agreement, and all negotiations, statements, agreements, and proceedings relating to the Settlement Agreement, and any matters arising in connection with settlement negotiations, proceedings, or agreements shall not constitute, be described as, construed as, offered or received against American or the other Released Persons as evidence or an admission of: (a) the truth of any fact alleged by Plaintiffs in the Litigation; (b) any liability, negligence, fault, or wrongdoing of American or the Released Persons; or (c) that this Litigation or any other action may be properly certified as a class action for litigation, non-settlement purposes.

26. The Court awards Class Counsel attorneys' fees and expenses in the amount of \$_____, and awards Plaintiffs \$_____ each as service awards, with such attorneys' fees, expenses, and service awards to be paid by American pursuant to the terms of the Settlement. [To the extent this Order does not address Settlement Class Counsel's motion for attorneys' fees, expenses and service awards, such motion will be addressed in a separate order.]

27. Pursuant to Fed. R. Civ. P. 54, the Court finds that there is no just reason for delay and expressly directs this Final Order and Judgment be immediately entered by the Clerk of the Court.

IT IS SO ORDERED.

Date: _____

Hon. Reed O'Connor
United States District Judge