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

GEMNAIKA FLORES, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

PHILIPPINE AIRLINES, INC. and PAL
HOLDINGS, INC.

Defendants.

Case No.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

1 Plaintiff Gemnaika Flores (“Plaintiff”) brings this action on behalf of herself and all others
2 similarly situated against Philippine Airlines, Inc. and PAL Holdings, Inc. (collectively,
3 “Defendants” or “PAL”). The allegations here are based on personal knowledge as to Plaintiff’s
4 own conduct and are made on information and belief as to all other matters based on investigation
5 by counsel.

6 **NATURE OF THE ACTION**

7 1. This is a class action lawsuit regarding Defendants’ failure to provide full refunds to
8 customers whose flights were cancelled or were subject to a significant schedule change and not
9 refunded as a result of the COVID-19 (“coronavirus”) pandemic.

10 2. Given the outbreak of the coronavirus, PAL have cancelled a vast percentage of
11 their international and U.S. flights. However, PAL have refused to issue refunds for flights that
12 they cancelled or significantly altered. PAL’s inexplicable and continuous withholding of
13 passengers’ refunds stands in direct contravention of their Contract of Carriage as well as other
14 representations made to passengers, which are set out more fully below.

15 3. PAL’s treatment of Plaintiff is no exception. On December 17, 2019, Plaintiff
16 purchased two roundtrip tickets departing on April 22, 2020, from San Francisco to Manila, the
17 Philippines for \$1,356.08. However, on April 5, 2020, PAL cancelled Plaintiff’s flights. Plaintiff
18 immediately attempted to secure a voucher. But after realizing that she would be unable to fly
19 during the COVID-19 pandemic, Plaintiff requested that PAL issue her a refund. On July 30,
20 2020, Plaintiff received a confirmation email from a PAL representative, Cecilia A. Murillo, that
21 her refund request had been filed and that she should “allow 3-6 months processing.”

22 4. After nearly six months, Plaintiff emailed Ms. Murillo on December 10, 2020 to
23 request the status of her refund. Ms. Murillo responded on December 10, 2020 stating that “[a]ll
24 refunds are being handled by our head office” and that Plaintiff should allow for additional
25 processing.

26 5. On December 29, 2020, Plaintiff sent an additional email to Ms. Murillo requesting
27 an update. Ms. Murillo responded on December 30, 2021, stating that she “sent follow up today”
28 and that Plaintiff should continue to be patient.

1 6. On January 18, 2021, Plaintiff sent another email requesting the status of her refund.
 2 Ms. Murillo responded, simply stating that she would “follow up today.” But Plaintiff did not
 3 receive a follow up. Instead, on March 3, 2021, Plaintiff emailed asking for another update. On
 4 March 9, 2021, Ms. Murillo responded that “all refunds are being handled by our head office.”
 5 Plaintiff called on March 14, 2021, March 16, 2021, twice on March 22, 2021, on April 6, 2021,
 6 twice in June 2021, and twice in July 2021. Each time Plaintiff was placed on hold, forcing
 7 Plaintiff to wait approximately one hour before her concerns were considered. However, none of
 8 these efforts were successful.

9 7. All told, Plaintiff sent a total of 8 emails and called 10 times. PAL’s
 10 representations to Plaintiff never materialized. Instead, PAL led Plaintiff, like others similar
 11 situated, through a test of exhaustion. As this Complaint will demonstrate, PAL breached both
 12 their Contract of Carriage as well as subsequent representations to its consumers who desperately
 13 sought a refund amidst a global pandemic and economic recession. In doing so, PAL inexplicably
 14 refused to issue refunds for Plaintiff and Class Members.

PARTIES

16 8. Plaintiff Gemnaika Flores is, and at all times relevant to this action has been, a
 17 citizen of California and a resident of Union City, California.

18 9. Defendant Philippine Airlines, Inc. is a business organized under the laws of the
 19 Philippines and maintains its Executive Office at 8/F PNB Financial Center, Macapagal Avenue, in
 20 Pasay City, National Capital Region 1307, the Philippines. Defendant also maintains its principal
 21 place of business in the U.S. at 1350 Bayshore Highway, Suite 150, Burlingame, California 94010.

22 10. Defendant PAL Holdings, Inc. is a holding company and parent of Philippine
 23 Airlines, Inc. PAL Holdings is organized under the laws of the Philippines and maintains its
 24 Executive Office at 7th Floor Allied Bank Center, 6754 Ayala Avenue, Makati 1200, the
 25 Philippines. PAL Holdings is also organized under the laws of the State of Delaware as File
 26 Number 3329654. PAL Holdings maintains a Registered Agent, called Delaware Corporate
 27 Agents, Inc., located at 4405 Tennyson Road, Wilmington, Delaware, 19802.
 28

1 **JURISDICTION AND VENUE**

2 11. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §
3 1332(d) because there are more than 100 class members and the aggregate amount in controversy
4 exceeds \$5,000,000.00, exclusive of interest, fees, and costs, and at least one Class member is a
5 citizen of a state different from Defendants.

6 12. This Court has personal jurisdiction over Defendants because Defendants
7 purposefully availed themselves of this forum by conducting substantial business within California
8 such that Defendants have significant, continuous, and pervasive contacts with the State of
9 California. Defendants also operate multiple offices throughout California and are registered with
10 the California Secretary of State as maintaining an office located at 1350 Bayshore Highway, Suite
11 150, Burlingame, California 94010.

12 13. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because Defendants do
13 substantial business in this District and a substantial part of the events giving rise to Plaintiff's
14 claims took place within this District, as Plaintiff Flores purchased her ticket in this District and
15 resides in this District. And as noted above, Defendants are registered as operating an office in
16 Burlingame, California.

17 **FACTUAL ALLEGATIONS**

18 ***PAL's Contract of Carriage***

19 14. PAL's refusal to refund customers violates their Contract of Carriage ("COC"),
20 attached as **Exhibit A**.¹ Specifically, this dispute is governed by Article 10 of PAL's COC.
21 Article 10, Section 1 provides that the "[r]efund of a Ticket or any of its unused portion . . . shall be
22 subject to these Conditions of Carriage."

23 15. Article 10, Section 2, entitled "When To File For Refund And To Whom Refund
24 Will Be Made," sets out many of the terms relevant to this action. The relevant portion provides
25 that "[r]efund of a Ticket or any of its unused portion, including taxes, fees, and or any other
26 amount collected on behalf of any third party, shall be applied with PAL within the period of the

27 _____
28 ¹ The Contract of Carriage attached to this complaint was in place at the time Plaintiff purchased her tickets.

1 validity of the Ticket and thirty (30) days thereafter.” Further, “[e]xcept as provided in this Article,
2 refund shall be made either to the Passenger, or to the person who has paid for the Ticket upon
3 presentation of satisfactory proof of entitlement to the refund.”

4 16. Section 2 further provides that “[a] refund made to anyone holding himself or
5 herself out as a person to whom refund may be made in terms of (a) above shall be deemed a
6 proper refund and shall discharge PAL from liability and any further claim for refund.”
7 Additionally, “[i]f the credit card is not under Passenger’s account name, Passenger warrants that
8 he/she and the credit card holder both agreed that: 1) either the Passenger or credit card holder may
9 apply for online refund; and 2) the refund will automatically be charged back to the credit card
10 account originally used.”

11 17. These terms are complemented by Article 10, Section 3 entitled “Involuntary
12 Refund” which states that “[i]f PAL cancels a flight, or fails to operate a flight reasonably
13 according to schedule, or fails to stop at a point to which you were destined or ticketed to Stopover,
14 or is unable to provide previously confirmed space, the amount of the refund shall be subject to
15 these Conditions of Carriage” as well as “PAL’s Tariffs, and applicable laws, rules, and
16 government regulations.”

17 18. Article 10, Section 4 entitled “Voluntary Refunds” further provides that “[i]f you
18 are entitled to a refund of your Ticket or any of its unused portion, including taxes, fees, or any
19 other amount collected for or on behalf of any third party, for reasons other than those set out in
20 Section 3 of this Article, the amount of the refund shall be in accordance with PAL’s Tariffs.”

21 19. As the terms of the COC make clear, refunds are to be issued to consumers for both
22 voluntary and involuntary cancellations.

23 ***DOT Guidance Supplies Reasonable Terms***

24 20. The COC does not reference the length of time in which PAL shall have to issue
25 refunds to consumers. But as described below, reasonable terms should be supplied in accordance
26 with well-established principles governing contract interpretation. In supplying reasonable terms,
27 one area to consider is the U.S. Department of Transportation’s (“DOT”) Enforcement Notice on
28 related matters.

1 21. The DOT has declared that “in the context of the 2019 Novel Coronavirus (COVID-
2 19) public health emergency, that U.S. and foreign airlines **remain obligated to provide a prompt**
3 **refund to passengers** for flights to, within, or from the United States when the carrier cancels the
4 passenger’s scheduled flight or makes a significant schedule change and the passenger chooses not
5 to accept the alternative offered by the carrier.”²

6 22. The DOT further counsels that “[t]he obligation of airlines to provide refunds,
7 including the ticket price and any optional fee charged for services a passenger is unable to use,
8 does not cease when the flight disruptions are outside of the carrier’s control (e.g., a result of
9 government restrictions).”

10 23. On May 12, 2020, the DOT issued a Second Enforcement Notice, stating in
11 pertinent part that “airlines have an obligation to provide a refund to a ticketed passenger when the
12 carrier cancels or significantly changes the passenger’s flight, and the passenger chooses not to
13 accept an alternative offered by the carrier.”³ The DOT explained that “[f]or airlines, ‘prompt’ is
14 defined as being within **7 business days** if a passenger paid by credit card, and **within 20 days** if a
15 passenger paid by cash or check.”⁴

16 24. The DOT Enforcement Notices are not merely guidance documents but are based on
17 provision of the Code of Federal Regulations, which are cited explicitly in the DOT Second
18 Enforcement Notice.

19 25. For the sake of clarity, it is important to reiterate that the DOT’s guidance is offered
20 here for the sole purpose of considering omitted terms such as the length of time PAL consumers
21 must wait for a refund. Courts have made clear that plaintiffs can sustain causes of action for
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23 _____
24 ² DEP’T OF TRANSP., U.S. DEPARTMENT OF TRANSPORTATION ISSUES ENFORCEMENT NOTICE
25 CLARIFYING AIR CARRIER REFUND REQUIREMENTS, GIVEN THE IMPACT OF COVID-19 (Apr. 3,
26 2020), [https://www.transportation.gov/briefing-room/us-department-transportation-issues-
27 enforcement-notice-clarifying-air-carrier-refund](https://www.transportation.gov/briefing-room/us-department-transportation-issues-enforcement-notice-clarifying-air-carrier-refund) (hereinafter “DOT Notice”) (emphasis added).

28 ³ DEP’T OF TRANSP., FREQUENTLY ASKED QUESTIONS REGARDING AIRLINE TICKET REFUNDS GIVEN
THE UNPRECEDENTED IMPACT OF THE COVID-19 PUBLIC HEALTH EMERGENCY ON AIR TRAVEL 1
(May 12, 2020), [https://www.transportation.gov/sites/dot.gov/files/2020-05/Refunds-
%20Second%20Enforcement%20Notice%20FINAL%20%28May%2012%202020%29.pdf](https://www.transportation.gov/sites/dot.gov/files/2020-05/Refunds-%20Second%20Enforcement%20Notice%20FINAL%20%28May%2012%202020%29.pdf)
(hereinafter “DOT SECOND NOTICE”).

⁴ *Id.* (emphasis added).

1 breach of contract in the absence of the DOT’s guidance.⁵ As the court determined in *Herrera v.*
 2 *Cathay Pac. Airways Ltd.*, “implicit in the Supreme Court’s opinion in *Wolens*^[6] is that courts
 3 would remain free to use general principles of contract law to interpret parties’ agreements without
 4 running afoul of the [Airline Deregulation Act].” No. 20-CV-03019-JCS, 2021 WL 673448 (N.D.
 5 Cal. Feb. 21, 2021). In *Herrera*, the court also cited *Cox v. Spirit Airlines, Inc.*, where it was
 6 determined that “[u]nder *Wolens*, routine contract claims may proceed, which necessarily required
 7 employing tools of contractual interpretation.” *Id.* at 10 (citing 786 F. App’x at 285). The DOT’s
 8 guidance is supplied for this purpose.

9 *PAL’s Representations To Consumers*

10 26. Another area to consider for supplying reasonable terms is PAL’s various
 11 representations to their consumers. PAL’s refusal to issue refunds runs contrary to several
 12 representations made to passengers in connection with coronavirus-related cancellations.

13 27. A consumer visiting PAL’s website at the height of the pandemic would have
 14 encountered multiple representations informing them that “passengers whose flights are affected by
 15 COVID-19 cancellations . . . may avail of the following options even after the enhanced
 16 community quarantine period or after your flight schedule:”

- 17 1. Rebook or reroute to a later date:
- 18 a. Unlimited (no rebooking fee)
 - 19 b. For first rebooking: No fare difference on the same cabin class. Travel date must
 20 be on or before November 30, 2020 or ticket validity, whichever comes first
 21 (with blackout dates for United States and Canada).
 - 22 c. For rebookings: Ticket must be on the original booking class and
 travel date must be within original ticket validity. Fare difference, taxes, and no
 show fees may be collected.
 - 23 d. For rerouting, fare difference and taxes may also be collected.

24 ⁵ See *Bugarin v. All Nippon Airways Co.*, No. 20-CV-03341-BLF, 2021 WL 175940, at *9 (N.D.
 25 Cal. Jan. 19, 2021) (“The Contract Claim is Not Preempted”); *Herrera v. Cathay Pac. Airways*
 26 *Ltd.*, No. 20-CV-03019-JCS, 2021 WL 673448 (N.D. Cal. Feb. 21, 2021) (“Implicit in the Supreme
 27 Court’s opinion in *Wolens* is that courts would remain free to use general principles of contract law
 to interpret parties’ agreements without running afoul of the ADA.”); *Ide v. Brit. Airways PLC*,
 28 No. 20-CV-3542 (JMF), 2021 WL 1164307, at *6 (S.D.N.Y. Mar. 26, 2021) (“In short, applying
 well-established principles of contract law, the Court concludes that the . . . Plaintiffs bring a
 plausible breach-of-contract claim based on British Airway’s failure to provide them with
 refunds.”).

⁶ *Am. Airlines, Inc. v. Wolens*, 513 U.S. 219, 232, 115 S. Ct. 817, 825, 130 L. Ed. 2d 715 (1995).

2. Convert the unused value of their ticket to a voucher for future use. For involuntary changes, the Travel Voucher is equivalent to the unused value of your ticket plus an additional 10% of the unused base fare. This benefit is available only among passengers who have not made previous changes to their booking. The additional 10% value is non-refundable. Click here to know more about Travel Voucher.
3. Refund their tickets without penalties. Due to the high volume of requests and limitations from the Enhanced Community Quarantine in the Philippines, there may be some delays in processing of refunds. For tickets purchased using credit card, Alipay, Gcash, Paypal, and Wechat Pay, ***the amount will be credited back to the account used at around 90 banking days (or an average of 2-3 billing cycles) from the date of processing.***

(emphasis added).

28. Consumers also would have seen PAL's representations informing them that they have "[n]o need to worry" and that they can secure their refunds from "the comfort and safety of [their] own home." One such representations is as follows:



1 29. In accordance with PAL’s representation, a consumer who wished to submit their
2 rebooking or to request a travel voucher or refund would scan the QR code or visit the hyperlink as
3 set out by PAL. The consumer would then proceed to the following page:



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25 30. As set out in PAL’s myPAL Request Hub information sheet, consumers who
26 desired a refund could complete their request following “3 easy steps: fill up the form[,] click
27 SUBMIT[,] and receive a confirmation via email.”
28

31. The form referred to above is as follows:

myPAL Request Hub

* Required

2. Full Passenger Name *

Enter your answer

3. Ticket Number *

Ticket number starts with 079

The value must be a number

4. E-mail address *

Please enter only one (1) e-mail address

Enter your answer

5. Contact Number *

The value must be a number

6. Citizenship *

Select your answer

7. Which airport will you be coming from *

Select your answer

Back Next

1 32. Once the consumer completed this form, they would then proceed to the following
2 page setting out their options:



3
4 * Required

5 Options for Booking Changes

6 REBOOK

- o For all passengers traveling on March 15 to May 15 and passengers affected by COVID-19 Cancellations or Travel Ban (February 2 to May 31)
 - Unlimited (no rebooking fee)
 - For first rebooking: No fare difference on the same cabin class. Travel date must be on or before November 30, 2020 or ticket validity, whichever comes first *with blackout dates
 - For succeeding rebookings: Ticket must be on the original booking class and travel date must be within original ticket validity. Fare difference, taxes, and no show fees may be collected.
 - For rerouting, fare difference and taxes may be collected

o For Voluntary Changes (flights not affected by cancellations or travel bans, travelling on May 16, 2020 onwards, must be ticketed on or before March 31, 2020 and request must be filed 7 days before departure)

- One time rebooking without penalties
- Fare Difference and Taxes may be collected
- Travel within ticket validity
- Request must be submitted 7 days before flight schedule

Note: Blackout dates (United States /Canada to Manila) June 15 to July 31 outbound (Manila to United States /Canada) July 15 to Sep 15.

15 CONVERT TO TRAVEL VOUCHER

- o The travel voucher can be used as partial or full payment to any PAL flight.
- o The travel voucher can be exchanged to a ticket or Travel Extras within 1 year from issuance.
- o If you are affected by an involuntary change, the Travel Voucher is equivalent to the unused value of your ticket plus an additional 10% of the unused base fare. This benefit is available only among passengers who have not made previous changes to their booking. The additional 10% value is non-refundable.
- o Your Travel Voucher is refundable. Otherwise, the refundability of your Travel Voucher (full or partial) will be subject to the fare rules and conditions of your ticket.

19 REFUND

- o No penalties for:
 - All passengers on March 15 to May 15, 2020
 - Passengers affected by COVID-19 Cancellations or travel bans
- o Due to the volume of requests, processing of refunds may take 3 to 4 months from lifting of enhanced community quarantine. We request for your understanding.

23 8. Please select your booking change option *

24

26 33. Under the option for refunds, PAL represents that “processing of refunds may take 3
27 to 4 months from lifting of enhanced community quarantine.” This is distinct from PAL’s previous
28

1 representation as set out above that “the amount will be credited back to the account used at around
2 90 banking days (or an average of 2-3 billing cycles) from the date of processing.”

3 34. A consumer who selected the refund option would then proceed to the following
4 page:

5 myPAL Request Hub

6 * Required

7 Refund Option

8 Before you hit that submit button, we would just like to let you know that processing of refunds through myPAL Request
9 Hub will take:

10

- 3 months or 3 billing cycles for credit card, depending on your bank’s turnaround times and
- 3 to 5 months for cash refunds, depending on the lifting date of the community quarantine period

11 You can also switch to a Travel Voucher

- The travel voucher can be used as partial or full payment to any PAL flight.
- The travel voucher can be exchanged to a ticket or Travel Extras within 1 year from issuance.
- If you are affected by an involuntary change, you will receive the unused value of your ticket plus an additional 10%
12 of the unused base fare. This benefit is available only among passengers who have not made previous changes to
13 their booking. The additional 10% value is non-refundable.
- Your Travel Voucher is refundable. Otherwise, the refundability of your Travel Voucher (full or partial) will be subject
14 to the fare rules and conditions of your ticket.

15

16 9. Please choose an option *

17 Yes, I want to switch to Travel Voucher.

18 No, I want to continue with my refund request. I agree with the said turnaround times.

19

20 Back Next

21

22 Never give out your password. [Report abuse](#)

23

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25 35. PAL again represents that “the processing of refunds through myPAL Request Hub
26 will take: 3 months or 3 billing cycles for credit card, depending on your bank’s turnaround times.”
27 PAL also informs consumers that their refund may take “3 to 5 months for cash refunds.”

1 36. Once consumers completed their refund request, PAL then sent them an email
2 substantially similar to the following:

3
4 Dear Sir/Ma'am,

5
6 This is to acknowledge your request to refund ticket number
7 ██████████, under booking reference ██████████, due to COVID-19.

8 We have already processed the refund and have assigned refund reference
9 number ██████████.

10 Due to the high volume of requests and limitations from the enhanced
11 community quarantine in the Philippines, there may be some delays in the
12 processing of refunds. Please allow 5 months from the date the refund was
13 processed (or an average of 5 billing cycles) for the amount to be credited
14 back to the account used.

15 We ask for your patience and understanding.

16 Sincerely,

17 Relyn
18 **Philippine Airlines**

19 By providing your Personal Information, you have read PAL's [Data Privacy Policy](https://www.philippineairlines.com/AboutUs/LegalNotices/Disclaimer), which
20 may be viewed at [https://www.philippineairlines.com/AboutUs/LegalNotices/](https://www.philippineairlines.com/AboutUs/LegalNotices/Disclaimer)
21 [Disclaimer](https://www.philippineairlines.com/AboutUs/LegalNotices/Disclaimer), and understood the purposes for collecting such Personal Information, the
22 parties to whom your Personal Information may be shared, our security measures, and
23 most importantly, your rights as Data Subjects under the Data Privacy Act. You likewise
24 give consent to the collection, use, monitoring, recording and disclosure or transfer of your
25 Personal Information in accordance with PAL's Data Privacy Policy.

26 37. At this point, PAL represents for the first time that consumers should allow a
27 minimum of five months from the date the refund was processed for the refund to be credited back
28 to the account used.

 38. However, as Plaintiff's experience and the consumer complaints below demonstrate,
PAL has not honored the terms of the COC or any of their subsequent representations to
consumers.

1 ***Consumer Complaints Regarding PAL’s Refusal To Honor Their Refund Policy***

2 39. Numerous consumer reports and complaints demonstrate that any condition
3 precedent for obtaining a refund has been excused, and that PAL has not honored their refund
4 policy. On March 17, 2020, one consumer, for example, submitted a report to the Better Business
5 Bureau (“BBB”) concerning PAL’s lack of responsiveness. The consumer stated that “Philippine
6 Airlines USA customer service line . . . is non[-]responsive amid [C]void[-]19.” The consumer
7 reported that “when I try calling Philippine Airlines customer service . . . the whole day, night of
8 [March 12, 2020] and morning of [March 13, 2020], and many times the calls disconnect or [are]
9 busy when you call.” The consumer stated that “if you get connected you are placed on hold for
10 hours with no answer or assistance.” The consumer even tried an alternative method of reaching
11 the Airline: “At one point, I tr[ie]d the other option called Mabuhay Miles on the same customer
12 service [number and] a customer service person answer[s] right away[.] [H]owever, they won’t
13 help . . . they will transfer you to the booking line option that place[s] you on hold for hours with
14 no response.” PAL was informed of this complaint and although PAL responded to the complaints
15 directly preceding and succeeding this complaint, PAL never responded to this consumer’s
16 complaint.

17 40. Another consumer reported to the BBB on May 20, 2020 that the Philippine Airlines
18 “just sent me an email informing me that the flight was cancelled. I tried to rebook to the next
19 available flight . . . but was asked to pay for a business class ticket, which according to them was
20 the last available seat.” The consumer stated that “I purchased the ticket just to be able to fly back
21 home because my husband was rushed to the hospital for congestive heart failure.” The consumer
22 reported that they had been unable to secure a refund. PLA was informed of this complaint and
23 responded on July 27, 2020.

24 41. Another consumer reported to the BBB on May 21, 2021 that the Philippine Airlines
25 “says they refunded our money in January. We never got the money. The bank never got the
26 money. [Philippine Airlines] never offers evidence of refund.” The consumer indicated that they
27 contacted the Airline on multiple occasions but that instead of issuing a refund the Airline issued “a
28 litany of hollow apologies while they continue[d] to keep my money.” PAL was informed of this

1 complaint and although PAL responded to the complaints directly preceding and succeeding this
2 complaint, PAL never responded to this consumer's complaint.

3 42. Another consumer reported to the BBB on August 6, 2020 that "my wife and I
4 purchased airfare and hotel with PAL" but that "PAL cancelled our trip and never refunded the
5 money." The consumer stated that "we feel that we have given [PAL] ample time to refund our
6 money and to this day we have not received any wire transfer, ACH, check or any other forms of
7 reimbursement in any of our accounts." The consumer then proceeded to set out the relevant
8 timeline in support of these assertions. The consumer stated that on "March 2020, [he and his
9 wife's] flights were cancelled;" that on "March 28, 2020 [he received an] email refund
10 acknowledgement sent by PAL;" that on "May 9, 2020 [he] requested [an] update to refund, no
11 response;" that on "May 19, 2020 [he] requested [a] status [update];" that on "May 20, 2020 [he]
12 filed [a] claim with Chase;" that on "May 21[, 2020 the Airline] responded with still no direct
13 answer as to where the refund was;" that on "July 10, 2020, Chase denied claim" because the
14 Airline "responded and said they issued a refund;" and that on "July 11, 2020 [he] still ha[d] not
15 received any refund." The consumer concluded that "it is very frustrating based off the first refund
16 email that the refund would be received after 30 days, then to call and be told it will take 2-3
17 months and now they are saying 5-7 months." PAL was informed of this complaint and responded
18 on August 9, 2020.

19 43. Another consumer reported to the BBB on August 20, 2020 that "[m]y flight was
20 cancelled by the airline and I was told that I could reschedule or request a refund." The consumer
21 wrote that they "chose to get a refund [on] May 11, 2020." The consumer reported that "I was told
22 at that time that it would take 4-6 weeks for my refund. It has now been 3 months since my first
23 attempt and I still have not received a refund." The consumer further noted that "I called today . . .
24 and spoke with a representative . . . who now tells me it will take 5 months from June 12, 2020 to
25 get my refund." The consumer concluded that "this is not fair. I am being charged interest fees
26 from my credit card everyday because they have not refunded my money back to the card like they
27 say they were going to do." PAL was informed of this complaint and responded on August 23,
28 2020.

1 44. Another consumer reported to the BBB on September 2, 2020 that PAL “has failed
2 to refund my flight ticket within a reasonable time frame despite multiple follow-ups and cancelled
3 flight by them.” The consumer stated that “I have been trying to receive a refund for two flight
4 booking . . . I made directly through Philippine Airlines since last March.” The consumer wrote
5 that “[w]hen all were cancelled by them due to COVID, I promptly followed their instructions in
6 late March 2020, patiently, and consistently followed-up to ensure I receive my refund.” However,
7 “after two months of no response, I received a notice that my refund was being processed on May
8 29, 2020 and that it would take 90-days from this date The 90-days have passed and I had to
9 follow-up multiple times against and get some response that it will not take 5 months.” The
10 consumer stated that “that is completely unacceptable and an unreasonable time to withhold a
11 refund especially during very difficult financial times.”

12 45. Importantly, the consumer rhetorically asked, “how can I be confident that in 5
13 months they won’t just tack on another few months until I give up on getting my refund?”
14 Moreover, the consumer stated that “I am entitled to my money, as they did not provide the
15 services those flight tickets paid for. They are withholding funds that are not theirs to keep.” The
16 consumer concluded that “It is difficult for me to understand why it would take that long, when
17 another airline I booked with in March was able to refund my money in one month with no follow-
18 up required.” PAL was informed of this complaint and responded on September 16, 2020.

19 46. Another consumer reported to the BBB on September 3, 2020 that “a refund was
20 requested for plane tickets I cancelled. Per the airline, refund was processed on [April 28, 2020].
21 As of today . . . no refund received.” The consumer stated that “I purchased 2 business class round
22 trip tickets . . . I requested tickets to be cancelled and refunded due to global pandemic.” The
23 consumer reported that “after multiple phone calls, Philippine Airlines finally confirmed
24 cancellation on [April 29, 2020] and that [a refund would be issued in] 2-3 billing cycles.” But the
25 “refund has not been received.” The consumer wrote that “after speaking to a customer service rep
26 at Philippine Airlines via phone today . . . they said refund should be expected in October or
27 November 2020. This timeframe is unreasonable. This is a significant amount of money.
28

1 Philippine Airlines needs to return the money.” PAL was informed of this complaint and
2 responded on September 29, 2020.

3 47. Another consumer reported to the BBB on September 21, 2020 that a “refund . . .
4 was promised on [March 1, 2020] to be processed within 30 business days. It has been over 6
5 months now without a refund.” The consumer wrote that “I was told to allow 30 business days for
6 [the refund] to process. I have emailed PAL multiple times respectfully inquiring about the status
7 of the refund, and each time they say ‘please wait one more month.’ It has been over 6 months
8 now and the refund still have not been received.” PAL was informed of this complaint and
9 although PAL responded to the consumer’s complaint immediately preceding and immediately
10 succeeding this complaint, PAL did not respond to this complaint.

11 48. Another consumer wrote to the BBB on September 21, 2020 that “we cancelled our
12 flight to [the] Philippines due to [COVID-19]” and “we rescheduled [the flight] for June 2020.”
13 However, “the airline changed the travel date without notifying us.” Consequently, “customer
14 service gave us [the] option to hold or refund since the airline changed the flight we ha[d] a choice
15 to cancel our travel and get full refund or change the travel date with no penalty.” The consumer
16 stated that “we chose to get a refund on March 11, 2020 due to Covid 19.” But the consumer
17 concluded that the refund that PAL ultimately issued was only a partial refund. PAL was informed
18 of this complaint and responded on October 8, 2020.

19 49. Another consumer wrote to the BB on September 23, 2020 that “[m]y flight was
20 cancelled due to COVID19. I requested a refund in April [and] it is now September and I have yet
21 to receive my refund.” The consumer wrote that “I purchased a roundtrip ticket for my son and I
22 on [March 3, 2020] scheduled to fly out in May to the Philippines.” But “the flight was cancelled
23 and rescheduled multiple times by Philippine Airlines due to COVID19.” The consumer stated
24 that “I decided to request . . . a refund and spoke with a customer service representative . . . I
25 received an email from Philippine Airlines dated [May 6, 2020] acknowledging the request for
26 refund for our tickets and that it is being processed.” The consumer that the “email stated that I
27 will receive my refund around 90 banking days or an average of 2-3 billing cycles from the date of
28 processing. On [August 4, 2020] I emailed PAL . . . to follow up on my refund. I received an Auto

1 response letting me know that due to high volume of emails there is a delay in response.” The
2 consumer noted, however, that “to this day I still have not received a response to my email. [I]n
3 the beginning of September I called PAL customer service to follow up on my refund and was told
4 that I have not reached my 90 days and to wait. I had the customer service rep[resentative] tell me
5 when my 90 days waiting period would end and I was told [September 14, 2020].” The consumer
6 stated that “I called PAL customer service again on [September 14, 2020] and was told that I now
7 had to wait at least 5 billing cycles. I requested to speak to the Supervisor . . . [who] told me that
8 he would send a request to expedite my refund and for me to wait 24-48 hours . . . I have waited 48
9 hours and still no refund.” PAL was informed of this complaint and responded on October 20,
10 2020.

11 50. Another consumer reported to the BBB on September 23, 2020, asking “where is
12 our refund???” The consumer wrote that “we have been patiently waiting to get a full refund on
13 our tickets. We cancelled our flight due to the current pandemic rightfully so since Philippine
14 Airlines gave that option.” The consumer reported that PAL “said 2-3 billing cycles but it has been
15 way beyond that. We have already been in contact with their customer service by phone and email
16 to no avail. In fact one rep[resentative] would say it was processed on May 28[, 2020] while
17 another would say June[, 2020].” The consumer rhetorically asked “what is going on????!!!!!!”
18 And the consumer concluded that “this is getting ridiculous!!!! We will exhaust all avenues to
19 expose these corrupt practices!!!!” PAL was informed of this complaint and responded on October
20 9, 2020.

21 51. Another consumer reported to the BBB on October 5, 2020 that “I purchased tickets
22 for my family in March 2020 to go to the Philippines in April 2020. The airline cancelled our
23 flight due to COVID-19. I requested a refund and was told the refunds were done on April 16,
24 2020.” The consumer reported that “it has now been over 5 months and I have yet to receive a
25 refund to my credit card. I have been going back and forth . . . about the funds for months now. I
26 have called and emailed . . . a number of times and they have yet to even give me a refund status.”
27 The consumer noted that “I have asked for a confirmation that the refund has been done and have
28

1 received no replies. Please help.” PAL was informed of this complaint and responded on October
2 6, 2020.

3 52. Another consumer wrote to the BBB on October 12, 2020 that “5 months after the
4 airline cancelled our flight, they haven’t issue[d] us a refund. Flight scheduled for May 21[, 2020]
5 to June 16[, 2021] . . . was cancelled by the airline and [PAL] has not refunded me.” The
6 consumer then concluded “please refund my money.” PAL was informed of this complaint and
7 responded on October 23, 2020.

8 53. Another consumer reported to the BBB on November 3, 2020 that “It [has] been 7
9 months since [PAL] cancelled [our] flights . . . I decided to refund my ticket and 7 months after
10 they still have not returned my money.” The consumer wrote that “I am just [a] minimum wage
11 earner living paycheck to paycheck. Suffering from stress and depression because of what they
12 did.” PAL was informed of this complaint and responded on November 4, 2020.

13 54. Another consumer reported to the BBB on November 6, 2020 that PAL “cancelled
14 [our] flight Aug[ust] 8. Called back [on] Oct[ober] 29[, 2020] . . . [the] agent assured it was
15 cancelled and I was to receive an email confirmation in 7-10 days and a refund in 5 months.”
16 However, the consumer wrote that “I called back October 29[, 2020] after months of nothing from
17 the company and they informed me they had not processed my refund and are now stating it will be
18 7-10 days from the day I receive[d] the email cancellation and 5 months from then to re[ceive] the
19 refund.” PAL was informed of this complaint and responded on November 10, 2020.

20 55. Another consumer wrote to the BBB on November 23, 2020 that “I haven’t received
21 my refund from Philippine Airlines. I recently booked a flight [with the] Philippine Airlines. But
22 because of the pandemic, it had to be cancelled. The airline said that it may take 150 days at the
23 most from the refund initiation date (May 21, 2020).” The consumer, however, reported that “It is
24 more than 150 days now. I’m forwarding their repetitive reply [to] my email inquiries.” The
25 consumer then quoted PAL’s email: “Dear . . . , We sincerely apologize for the long processing
26 time that you experience. The refund process may take up to 5 months . . . from the time the
27 refund was initiated . . . Your bank will be notified once the amount has been transmitted.” PAL
28 was informed of this complaint and although PAL responded to the consumer’s complaint

1 immediately preceding and immediately succeeding this complaint, PAL did not respond to this
2 complaint.

3 56. Another consumer reported to the BBB on December 3, 2020 that “[our] airline
4 ticket was process[ed] 7 months ago until now still did not receive[] the refund.” The consumer
5 stated that they “tr[ie]d to email and call but [to] no avail, people are frustrated.” PAL was
6 informed of this complaint and responded on December 13, 2020.

7 57. Another consumer wrote to the BBB on December 8, 2020 that “a flight refund was
8 requested due to flight cancellation A refund was promised within 90 days. No refund
9 received.” The consumer reported that they “promptly requested” a refund and was told “to expect
10 [the] refund within 2-3 billing cycles / 90 business days.” The consumer stated that on “August 24,
11 2020, [I] sent [an] email . . . with [the] refund reference number . . . informing them [that] 90
12 banking days have elapsed.” However, when PAL responded that the refund request “is being
13 processed and to expect an[] ADDITIONAL 90 banking days / 2-3 billing cycles before receiving
14 the refund.” The consumer stated that they sent an additional email on October 19, 2020 and again
15 on November 26, 2020 but “no refund received.” But instead of issuing the refund as promised,
16 PAL “state[d] they are still processing the request. Escalated request and spoke with . . . supervisor
17 . . . who states [the refund] is still being processed by the refunds department. I had requested to
18 speak with the refunds department however they state it is internal and they cannot transfer the
19 call.” The consumer concluded that PAL’s conduct “is illegal and unethical.” PAL was informed
20 of this complaint and responded on December 21, 2020.

21 58. Another consumer reported to the BBB on December 17, 2020 that “I am a disabled
22 vet[er]an living on a fixed income. I purchased a business class ticket so that I could lay down
23 because of medical issues on such a long flight.” The consumer wrote that “I . . . have not received
24 my voucher refund as promised.” The consumer stated that the Philippine Airlines “changed the
25 day of our flight” and “I cancelled [my ticket] because the operator I spoke with said I could get a
26 voucher refund in 7-15 business days. I thought I could easily rebook another flight.” But this was
27 not the case. PAL was informed of this complaint and responded on December 29, 2020.

1 59. Another consumer wrote to the BBB on December 17, 2020 that “I have not
2 received my refund yet from Philippine Airlines! My dad ha[d] a flight April 8-28[, 2020] to the
3 Philippines and due to COVID-19 PAL cancelled his flight March 23[, 2020].” The consumer
4 reported that “when PAL cancelled [in] March, I remember I waited in the line for 3 long hours
5 just to let PAL know that I wanted a refund for that ticket. The agent who helped me, told me that
6 they will be processed already. And it will take 3 billing cycles or 90 banking days to get the
7 refund.” The consumer reported that they received an email from PAL on April 5, 2020 informing
8 them that “if you convert your ticket to a Travel Voucher you will receive the full unused value of
9 your ticket plus an additional 10% of the value.” The consumer wrote “I did not want that. I spoke
10 to them clearly that I was a refund! There was an option for me at the end of this email to
11 reconfirm I want my refund.” The consumer stated that on April 22, 2020 “I got another email
12 [from PAL] . . . asking the same thing! I [responded] that I have already confirmed that I wanted a
13 refund!” The next day the consumer received a reply email stating that “We will process the
14 refund and it will be credit back to your credit card.” The consumer stated that they follow up with
15 PAL on September 16, 2020 but received a response stating that “upon checking on the record, the
16 refund has been processed on our end last May 18, 2020” but that “there may be some delay in the
17 transmittal of the refunds. The amount will be credited back to the account used in the booking at
18 around 150 banking days.” The consumer wrote “Now they’re saying ‘150 banking days.’ What
19 type of business would make their consumer expect 90-banking days and would change to 150
20 banking days?”

21 60. The consumer reported that they followed up with PAL on October 6, 2020 and
22 received a similar response asking for the consumer’s patience. The consumer then followed up on
23 October 27, 2020 and received another similar response requesting that the consumer remain
24 patient. The consumer reported that “[t]his is unacceptable. See how they handle the situation. Its
25 December now and I have not got a refund from them aside from their unstoppable waiting
26 cycles.” PAL was informed of this consumer’s complaint and responded on December 29, 2020.

27 61. Another consumer reported to the BBB on January 25, 2021 that PAL “is not
28 refunding fare for flight cancelled by them. I have been waiting for refund for over 6 months.”

1 The consumer explained that “I purchased flight ticket for my daughter and me last year (2019) my
2 flight was to be on June 2020 [but the] flight was cancelled due to COVID-19 by them [because]
3 they could not fly on the dates purchased.” As a result, PAL “rescheduled the flight with dates
4 provided by them. I was told by them if I did not fly on those dates I could either get vouchers or a
5 refund. I chose a full refund, [and it] was indicated that [the] refund would take 90 days.” The
6 consumer wrote that “after 90 days I still had not received a refund so I called to inquire about it
7 and was told another 30 days would be needed for the refund. It has been the [same] story since
8 then.” The consumer wrote that “Now every time I call to inquire they tell me their system is being
9 updated and no one wants to talk with me. They place me on hold and eventually the call is
10 disconnected. Request to escalate to supervisor [and] they say [the] supervisor will call, so far no
11 call received.” The consumer concluded that “they are giving the impression that they will steal
12 my flight fare and my bank tried to contact them but they also do not respond to them.” PAL was
13 informed of this complaint and responded on January 27, noting that “we . . . [are unable] to verify
14 the passenger record We also hope to be given more time to file our response.”

15 62. Another consumer reported to the BBB on February 23, 2021 that “my flights (wife
16 and I) were cancelled due to the pandemic. I was advised multiple times I’d be refunded. No
17 refund still. I’ve been waiting for a refund . . . but there is still no refund. In fact, I’ve been told on
18 multiple occasions that a request would be expedited and nothing happens.” The consumer wrote
19 that PAL “ha[s] the audacity to tell me it takes 5 months to receive a refund. Hilariously, 10
20 months later and still there’s no refund for the cancelled flight. At this point, I don’t know what to
21 do. I’ve sent out several emails trying to get a refund with no luck.” The consumer stated that
22 “every email has the same generic templated attached stating they are going to expedite the request.
23 I haven’t seen any follow-up regarding any expedite submitted on my behalf.” The consumer also
24 wrote that “Even on today’s call, I advised I’d be willing to wait on the line for them to send me an
25 email confirmation of this supposed expedited request for a refund, and again nothing happens.”
26 The consumer concluded that “You can simply look at their Facebook page and see that there’s still
27 hundreds of people who haven’t received their refund back.” PAL was informed of this complaint
28 and responded on March 9, 2021.

1 63. Another consumer wrote to the BBB on February 24, 2021 that “PAL sent me a
2 confirmation . . . for my refund on [May 14, 2020] sa[ying] 30-60 days until refund” but “no refund
3 yet.” The consumer explained that on April 25, 2020, “PAL sent me a[n] email saying my flight
4 has been cancelled due to COVID-19, I then request a refund . . . [and] received a confirmation [of]
5 cancellation . . . saying I would receive my refund around 90 banking says or 2-3 billing cycles.”
6 The consumer stated that “on [October 14, 2020] I called them again and I wasn’t able to be
7 connected to anyone who could help . . . I still have not received my refund.” PAL was informed
8 of this complaint and responded on March 10, 2021.

9 64. Another consumer reported to the BBB on February 25, 2021 that they have been
10 “awaiting [a] refund for over 7 months now . . . Been calling company twice a month but I get the
11 same information. Have talked to multiple supervisors but still no resolution. An email was sent
12 to me from company [on] June 2, 2020 acknowledg[ing] [the] refund within 90 banking days or 2-
13 3 billing cycles.” The consumer stated that they sent another email to PAL “on January 14, 2020
14 which I haven’t heard back from them yet. I’ve mentioned that these are hard times [and] that I’m
15 in need of that refund because I’m still paying my credit card company just to avoid delinquent
16 notices I’m exhausted calling them [and] nothing is getting resolved.” PAL was informed of
17 this complaint and responded on March 11, 2021.

18 65. Another consumer wrote to the BBB on March 1, 2021 that “[I have] been waiting
19 for my refund for almost 10 months now. They informed me to wait for 6 billing cycle[s] but
20 nothing happened after the 6 billing cycles.” The consumer described that “I purchased my ticket
21 last April 2020 but it got cancelled. I requested a refund after that but they informed me that they
22 didn’t receive any request.” The consumer concluded that “I want my long overdue refund.” PAL
23 was informed of this complaint and responded on March 16, 2021.

24 66. Another consumer reported to the BBB on March 2, 2021 that “our family flight . . .
25 to the Philippines was cancelled . . . and I am still waiting for a refund. My 3 children and I were
26 scheduled to go” but “I received an email . . . cancelling our flight.” The consumer reported that “I
27 called several times and I was told to wait for 5 billing cycles. I also emailed.” The consumer
28

1 concluded that “I would like a refund for my ticket . . . I have been patient . . . I would just like this
2 matter resolved.”

3 67. Another consumer reported to the BBB on March 2, 2021 that “I had tickets for a
4 flight during summer . . . which were cancelled due to COVID. They confirmed they would refund
5 the money and they have not . . . Numerous communications indicated they would be issuing a
6 refund. The date for the refund kept getting push[ed] out.” The consumer concluded that they
7 would like their “full refund of [the] ticket amount.” PAL was informed of this complaint and
8 responded on March 16, 2021.

9 68. Another consumer wrote to the BBB that “I purchase[d] a ticket from Philippine
10 Airlines and I requested a refund several times but have not received any refund.” The consumer
11 stated that “I have called the airlines numerous times since I purchased the [ticket] and it was to be
12 refunded” but “then the refund time frame was extended.” The consumer then wrote that “I called
13 again today to find out the status of my refund and I was informed they HAVE NO RECORD OF
14 MY RESERVATION.” (emphasis in original). PAL was informed of this and responded on March
15 15, 2021² nothing that “the complaint and link do not mention the ticket number.”

16 69. Another consumer reported to the BBB on March 22, 2021 that “I still haven’t
17 received my refund. It’s officially been one entire year since I put in my initial request for a
18 refund. I still have not been refunded and have been given no information that confirms I’ll be
19 refunded.” PAL was informed of this consumer’s complaint, but PAL did not respond.

20 70. Another consumer complained to the BBB that “I purchased a ticket from Philippine
21 Airlines last summer, 2020. The flight was for September and by early August they had cancelled
22 the flight. I properly filled out the refund request and submitted it August 11, 2020.” The
23 consumer wrote that “they assured me it would take five months or less to refund the money back
24 to my account. Still to this day, over seven months from my refund request, they still are not
25 giving me an answer as to when it will be.” The consumer wrote that “I’ve seen online forums
26 with people saying they’ve been waiting over 12 months!” The consumer concluded that “I
27 strongly believe they have no intention of paying anybody back and are going to declare
28 bankruptcy. What can I do? Right now \$900 is a lot of money to me and they have been making

1 interest off it for over seven months now.” PAL was informed of this complaint and responded on
2 April 5, 2021 and “request[ed] to be given further time to file our reply.”

3 71. Another consumer complaint to the BBB on March 31, 2021 that PAL “cancelled
4 my flight due to COVID. I requested a refund and [PAL] stated it would take 5 months to process,
5 after 5 months nothing was refunded. I called [PAL] and they told me to wait for 4 weeks, called
6 again and told to wait another 4 weeks.” The consumer stated that “I called every week to follow
7 up but just keep being told to wait another week. I emailed them multiple times as well. Flight
8 was cancelled back in April 2020.” PAL was informed of this complaint and responded on April
9 13, 2021.

10 72. Another consumer reported to the BBB on April 2, 2021 that “my refund was
11 processed [the] first week of August 2020 and they asked for up to 5 months to get it back. But
12 unfortunately until now I never got anything. I’m constantly following up [with] their [customer
13 service] but all they can say is they can’t do anything because it’s already [in] their finance
14 department’s hand.” PAL was informed of this complaint and responded on April 4, 2021.

15 73. Another consumer reported to the BBB on April 15, 2021 that “my flight [March,
16 2020] was cancelled due to the pandemic and PAL emailed me on [April 23, 2020] that they
17 processed my refund of \$779.42 and to wait for 90 banking days.” The consumer wrote that “I was
18 patient and understanding because of the pandemic so I didn’t follow up and call again until
19 [November 24, 2020]. I was told 10 business days and still nothing.” The consumer reported that
20 “I called [December 16, 2020]. I was told they can’t do / see anything because it is now being
21 processed by the treasury department of PAL and its internal. On the same day, I sent them an
22 email, I was told that it’s being refunded and they sen[t] me a refund certificate. But there was
23 nothing again.” The consumer wrote that “I emailed [February 19, 2021] [and] they said they
24 submitted a request to be expedited and [to] expect [it] in 30 working days. And now . . . still
25 nothing.” The consumer concluded that “following up with calls and emails is getting stressful. I
26 believe I’ve given enough time, and was very patient. But almost a year is unacceptable and all I
27 keep getting are reasons and time frames.” PAL was informed of this consumer’s complaint and
28 responded on April 15, 2021.

1 ***Additional Complaints Confirming Excuse Of Any Conditions Precedent***

2 74. As the complaints set out above demonstrate, PAL systematically prevented
3 consumers from performing any conditions precedent to receiving a full refund for their cost of
4 their tickets. But these are not all of the known complaints. Websites have emerged providing
5 consumers with an additional outlet to publicly register their complaints against PAL. One of these
6 websites, *Airlines Inform*, has registered dozens of consumers further attesting to the problems
7 described above. Many of these are included below.

8 75. On March 4, 2021 one consumer reported to Airlines Inform that “we bought 3
9 tickets and 1 other plane ticket last year in February 2020 because my father passed away. I called
10 [PAL] 3 times on separate occasions and ended up on promises of a refund. It is almost a year
11 now.” The consumer reported that “I couldn’t take this anymore so I am finding a way to connect
12 with other passengers with the same plight as we are as to the next move we should be taking. I am
13 already hopeless with [PAL’s] promises.”

14 76. On March 10, 2021 another consumer wrote “report this airline . . . for not
15 refunding the money that took months and years just to be refunded. The more complaints to the
16 U.S. . . . government about them will show that they are really not doing what they should be
17 doing.” The consumer wrote “those people who bought [PAL] ticket[s] probably are having heart
18 attack[s] because of worrying too much, health problems due to the long wait of the promised
19 refund which they have not idea at this time people need the money and [PAL is] holding back.”
20 The consumer further stated that “according to their policy refunds take 5 months. It shouldn’t
21 take years for them to return the money. They ignored their costumers who paid them They
22 don’t care. They have no concern [and are] unwilling to do it right away to return the money
23 Emails get ignored [and] phone calls [are] unhelpful.”

24 77. On March 12, 2021, another consumer wrote “I cancelled my round-trip ticket to the
25 Philippines from LAX in August 2020. Now mid-March I still don’t have my refund. I wasn’t
26 concerned until I saw all these other posts. I’m feeling I have many more months to go. Shame on
27 you Philippine Airlines. Stop making interest off of our money!”
28

1 78. On March 12, 2021, another consumer wrote “if only I booked one . . . ticket for
2 what \$600-700.00 I can just forgive and save myself the heart attack, stress and anxiety of dealing
3 – begging with them The thing is its around \$5000.00.” The consumer stated that “that is
4 hard to come around these days especially for people who got furloughed and lost their jobs
5 They deserve[] to be sued.”

6 79. On March 16, 2021, another consumer wrote “Guys, has anyone received their
7 refunds lately? Our flight was cancelled in June 2020 and we are still waiting.”

8 80. On March 18, 2021, another consumer wrote “my flight got cancelled in mid-May
9 and refund acknowledgement on the day itself but the approval was processed only in early July. I
10 have been chasing them since then. Initially refund was by 3 billing cycles, then 5 months, then 5
11 months excluding weekends and holidays.” The consumer wrote that “it takes about 4 or 5 emails
12 to get an answer but the answers make one sick. Purchased the tickets [at the] end [of] Dec[ember]
13 2019, 8 months have passed since approval of refund in early July and 10 months since
14 acknowledgement.”

15 81. On March 20, 2021 another consumer wrote “deal with your credit card [company]
16 if you are based in the U.S. I’ve been given a run around for 14 months whenever I call and email
17 so its useless to deal with PAL directly.”

18 82. On March 26, 2021, another consumer wrote “PAL cancelled my flight last August
19 2020 and the refund would take 5 billing cycles or 5 months. Until now almost 9 months [and] still
20 they [have not] return[ed] my money and the worse is they don’t even update you regarding it.”
21 The consumer wrote “I called them many times and spoke to different people [and] they always
22 give me false hope that it will be in my account the next billing cycle.”

23 83. On April 5, 2021, another consumer wrote “sounds like PAL is doing this to
24 countless customers . . . they cancelled our flights in March 2020. I have called PAL [and] I have
25 countless emails to PAL (save those) as well as calling the credit card company . . . all to no avail.”
26 The consumer further stated that “there is no way I am letting them keep our money . . . think about
27 how many customers they have done this to . . . all interest free . . . keep fighting for your money.”
28

1 84. On April 9, 2021, another consumer wrote “I bought tickets for my family (4
2 people) in December 2019 for [a] getaway in [the] Philippines in July 2020. PAL cancelled the
3 flight in June. I opted for a full refund at that time. I was told I would get it in 3 months. Then it
4 was extended to give 5 months.” The consumer wrote that “I’ve called PAL and emailed them
5 many times but I keep getting the runaround that the delay is due to the pandemic. I even sought
6 the help of the Civil Aeronautics Board . . . nothing helped. In February of this year I was refunded
7 for only 1 ticket even though I provided information for all 4 passengers.” The consumer
8 concluded that “now I’m worried it may take a very long time, or maybe never will I get the other
9 party of that refund.”

10 85. On April 13, 2021, another consumer wrote “PAL assigned a refund reference
11 number on June 11, 2020 after 2 weeks of my refund request. They said it will take 90 banking
12 days or an average of 2-3 billing cycles from the date of processing. I started sending them follow-
13 up emails after the 90-day period.” The consumer wrote that PAL “replied, saying this time it may
14 take 5 months . . . alright I waited 5 months, no refund . . . every month there[after], I kept
15 bombarding them with emails, same reply.” The consumer reported that “it’s now past 10 months
16 and nothing with over 15 follow-up emails.”

17 86. On April 19, 2021, another consumer wrote “a refund for one ticket maybe they’ll
18 think that should shut you up for now. [But] I have 11 family members for domestic flights . . .
19 PAL still owes me over \$3000.”

20 87. On April 20, 2021, another consumer wrote “I was told 5 months or 5 billing cycles,
21 from last July to refund my ticket that was purchased in December 2019 – flight cancelled in late
22 March 2020 because of COVID. Today I called again and she said it was processed on January
23 21[, 2021] and within 5 billing cycles I will get a refund.”

24 88. On April 25, 2021, another consumer wrote “I’m all for class action suit. Requested
25 refund in May 2020 for cancelled flight. They said wait 3 months, then nothing. They said wait up
26 to 5 months, nothing. In January, I called again . . . [they] promised 30 days. Never came.” The
27 consumer also noted that they “sent an email to refund office, complaint to customer service, and
28 complaint to Department of Transportation. DOT replied sadly saying they could not assist me

1 because flight were not in U.S., but forwarded my complaint to PAL customer service . . . I got a
2 reply from PAL [which was] the same response from Wednesday.” The consumer concluded that
3 PAL is “doing whatever it takes to not refund people what is due to them.”

4 89. PAL also knew or should have known about these and other complaints. Online
5 reputation management (commonly called “ORM” for short), is now a standard business practice
6 among most major companies and entails monitoring consumer forums, social media, and other
7 sources on the internet where consumers can review or comment on particular companies.
8 “Specifically, [online] reputation management involves the monitoring of the reputation of an
9 individual or a brand on the internet, addressing content which is potentially damaging to it, and
10 using customer feedback to try to solve problems before the damage to the individual’s or brand’s
11 reputation.”⁷ Many companies offer ORM consulting services for businesses.

12 90. Like most companies, PAL presumably cares about their reputation and regularly
13 monitors on-line consumer reviews because they provide valuable data regarding customer
14 satisfaction and marketing analytics. Reviews like those copies above would be particularly
15 attention-grabbing for PAL’s management because extreme reviews are sometimes the result of
16 extreme problems, and – just like any other company – PAL is presumably sensitive to the
17 reputational impact of negative online reviews. Hence, PAL’s management knew or should have
18 known about the above-referenced consumer complaints shortly after each complaint was posted
19 online.

20 91. The fact that so many consumers made similar complaints about the same issue
21 indicates that the complaints were not isolated incidents. These complaints were similar enough to
22 put PAL’s management on notice that consumers had yet to receive their refunds despite waiting
23 for the amount of time PAL requested.

24 **CLASS ALLEGATIONS**

25 92. Plaintiff seeks to represent a Class defined as all persons in the United States who
26 purchased tickets for travel on a Philippine Airlines flight scheduled to operate to, from, or within

27 _____
28 ⁷ WebSolutions Main, “Online Reputation,” Available at <https://websolutions-maine.com/online-reputation/> (last visited March 15, 2021).

1 the United States whose flights were cancelled or were subject to a significant schedule change and
2 not refunded.

3 93. Subject to additional information obtained through further investigation and
4 discovery, the foregoing definitions of the Class may be expanded or narrowed through amendment
5 to the complaint or narrowed at class certification.

6 94. Specifically excluded from the Class are PAL, PAL's officers, directors, agents,
7 trustees, parents, children, corporations, trusts, representatives, employees, principals, servants,
8 partners, joint ventures, or entities controlled by PAL, and their heirs successors, assigns, or other
9 persons or entities related to or affiliated with PAL, the judge assigned to this action, and any
10 member of the judge's immediate family.

11 95. **Numerosity.** The members of the proposed Class are geographically dispersed
12 throughout the United States and are so numerous that individual joinder is impracticable. Upon
13 information and belief, Plaintiff reasonably estimates that there are hundreds of thousands of
14 individuals that are members of the proposed Class. Although the precise number of proposed
15 members is unknown to Plaintiff, the true number of members of the Class is known by PAL.
16 Members of the Class may be notified of the pendency of this action by mail and/or publication
17 through PAL's distribution records.

18 96. **Typicality.** The claims of the representative Plaintiff are typical of the claims of the
19 Class. The representative Plaintiff, like all members of the Classes, paid for a PAL flight that was
20 subjected to a significant schedule change and was not refunded for the cancelled flight or for any
21 consequential damages and cancelations caused by the original cancelled flight. The representative
22 Plaintiff, like all members of the Class, has been damaged by PAL's misconduct in the very same
23 way as the members of the Class. Moreover, the factual bases of Defendant's misconduct are
24 common to all members of the Class and represent a common thread of misconduct resulting in
25 injury to all members of the Class.

26 97. **Existence and Predominance of Common Questions of Law and Fact.** Common
27 questions of law and fact exist as to all members of the Classes and predominate over any
28

1 questions affecting only individual members of the Class. These common legal and factual
2 questions include, but are not limited to, the following:

- 3 a. Whether PAL failed to refund purchasers of cancelled flights and the consequential
4 damages resulting therefrom;
- 5 b. Whether Philippine Airlines violated the terms of its Contract of Carriage;
- 6 c. Whether Plaintiff and the Classes are entitled to damages, restitution, equitable,
7 injunctive, compulsory, or other relief.

8 98. **Adequacy of Representation.** Plaintiff will fairly and adequately protect the
9 interests of the Class. Plaintiff has retained counsel who are highly experienced in complex
10 consumer class action litigation, and Plaintiff intends to vigorously prosecute this action on behalf
11 of the Class. Plaintiff has no interests that are adverse to those of the Class.

12 99. **Superiority.** The class mechanism is superior to other available means for the fair
13 and efficient adjudication of the claims of Class Members. Each individual Class Member may
14 lack the resources to undergo the burden and expense of individual prosecution of the complex and
15 extensive litigation necessary to establish PAL's liability. Individualized litigation increases the
16 delay and expense to all parties and multiplies the burden on the judicial system presented by the
17 complex legal and factual issues of this case. Individualized litigation also presents a potential for
18 inconsistent and contradictory judgments. In contrast, the class action device presents far fewer
19 management difficulties and provides the benefits of single adjudication, economy of scale, and
20 comprehensive supervision by a single court on the issue of PAL's liability. Class treatment of the
21 liability issues will ensure that all claims and claimants are before this Court for consistent
22 adjudication of issues related to liability.

23 **COUNT I**
Breach of Contract

24 100. Plaintiff reincorporates and realleges each preceding paragraph herein.

25 101. Plaintiff brings this claim on behalf of herself and members of the Class.

26 102. Defendants entered into contracts with Plaintiff and members of the Class through
27 their Contract of Carriage.

28 103. PAL's Contract of Carriage provides for refunds in the event of involuntary

1 cancellations, such as those arising from the coronavirus pandemic: “[i]f PAL cancels a flight, or
2 fails to operate a flight reasonably according to schedule, or fails to stop at a point to which you
3 were destined or ticketed to Stopover, or is unable to provide previously confirmed space, the
4 amount of the refund shall be subject to these Conditions of Carriage”

5 104. PAL’s Contract of Carriage also provides for refunds arising from voluntary
6 cancellations: “[i]f you are entitled to a refund of your Ticket or any of its unused portion,
7 including taxes, fees, or any other amount collected for or on behalf of any third party, for reasons
8 other than those set out in Section 3 of this Article, the amount of the refund shall be in accordance
9 with PAL’s Tariffs.”

10 105. Plaintiff and members of the Class performed their portion of the bargain by paying
11 the airline ticket fees for the flight before they were cancelled.

12 106. For the reasons set forth above, PAL frustrated any condition precedent to Plaintiff
13 and Class Members receiving a refund because PAL left Plaintiff on hold for extended periods of
14 time and failed to respond to emails sent inquiring about the status of Plaintiff’s refund.

15 107. PAL has breached these contracts by retaining Plaintiff’s and Class members’
16 airline ticket fees while not providing flight services, in violation of their Contract of Carriage.

17 108. Plaintiff and Class members have suffered an injury through the payment of money
18 for tickets while not receiving services in return.

19 109. Plaintiff and Class members have also suffered injury through PAL’s unreasonable
20 delay in issuing refunds, thus depriving Plaintiff and Class members the time value of their money.
21 Essentially, PAL have unjustly gained an interest-free loan through dilatory tactics and refusal to
22 honor their refund policy.

23 110. PAL has also frustrated its passengers’ ability to request refunds, as demonstrated
24 above.

25 111. Plaintiff and Class members are entitled to damages for PAL’s breach of their
26 Contract of Carriage, or in the alternative, to rescission of the Contract of Carriage.

COUNT II
Unjust Enrichment

1
2 112. Plaintiff reincorporates and realleges each preceding paragraph herein. This claim
3 is brought in the alternative to the contract-based cause of action.

4 113. Plaintiff brings this claim on behalf of herself and members of the Class.

5 114. Plaintiff and the Class conferred benefits on Defendants by purchasing airline
6 tickets with PAL.

7 115. Defendants have been unjustly enriched in retaining the revenues derived from
8 Plaintiff and Class Members' purchase of airline tickets, where they have subsequently canceled or
9 significantly changed the schedule for Class Members' flights and have not issued a refund.
10 Retention of those moneys under these circumstances is unjust and inequitable because
11 Defendants' failure to issue refunds is in violation of their Contract of Carriage, and is in violation
12 of California law. These acts and omissions caused injuries to Plaintiff and the Class because they
13 would not have purchased their airline tickets at all, or on the same terms, if the true facts were
14 known.

15 116. Because Defendants' retention of the non-gratuitous benefits conferred on them by
16 Plaintiff and the Class is unjust and inequitable, Defendants must pay restitution to Plaintiff and the
17 Class for their unjust enrichment, as ordered by the Court.

COUNT III
Fraud

18
19
20 117. Plaintiff reincorporates and realleges each preceding paragraph herein.

21 118. Plaintiff brings this claim on behalf of herself and members of the Class.

22 119. As discussed above, Defendants provided Plaintiff and Class members with false or
23 misleading material information and failed to disclose material facts about how they process
24 refunds, contrary to the representations found in the Contract of Carriage. These
25 misrepresentations and omissions were made by Defendants with knowledge of their falsehood.

26 120. The misrepresentations and omissions made by Defendants, upon which Plaintiff
27 and Class members reasonably and justifiably relied, were intended to induce and actually induced
28 Plaintiff and Class members to purchase their airline tickets.

1 121. The fraudulent actions of Defendants caused damage to Plaintiff and the members
2 of the Class, who are entitled to damages and other legal and equitable relief as a result.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff respectfully requests, individually and on behalf of the alleged
5 Class, that the Court enter judgment in their favor and against PAL as follows:

- 6 a) An Order certifying the proposed Class and appointing Plaintiff and her Counsel to
7 represent the Class;
- 8 b) An Order requiring PAL to immediately issue refunds to Plaintiff and Class members
9 for the cost of the cancelled tickets, any cancellation fees, and consequential damages
10 resulting therefrom;
- 11 c) An Order of disgorgement of wrongfully obtained profits;
- 12 d) An award of compensatory damages, in an amount to be determined;
- 13 e) An award of reasonable attorneys' fees, cost and litigation expenses, as allowable by
14 law;
- 15 f) Interest on all amounts awarded, as allowed by law; and
- 16 g) Such other and further relief as this Court may deem just and proper.

17 **JURY TRIAL DEMANDED**

18 Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff demands a trial by jury of any and
19 all issues in this action so triable as of right.

20
21
22 Dated: April 12, 2022

Respectfully submitted,

23 **BURSOR & FISHER, P.A.**

24 By: /s/ Neal J. Deckant
25 Neal J. Deckant

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