

**IN THE CIRCUIT COURT OF THE FIFTEENTH JURIDICAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA**

SOUTHERN AIRWAYS CORPORATION,

Plaintiff/Counter-Defendant

CASE NO.: 50-2023-CA-014213-XXXA-MB

v.

BENJAMIN RYAN AND
NATHANIEL HILLARD,

MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT

Defendant/Counter-Plaintiffs.

**DEFENDANT BENJAMIN RYAN AND COUNTER PLAINTIFFS BENJAMIN
RYAN AND NATHANIEL HILLARD'S UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

Benjamin Ryan and Nathaniel Hillard, on behalf of themselves and the proposed Settlement Class, seek certification of the class and preliminary approval of the settlement in this case. Southern Airways Corporation does not oppose.

I. SUMMARY OF CLAIMS AND PROCEDURAL HISTORY

Benjamin Ryan and Nathaniel Hillard are two of many pilots who work or worked for Southern Airways Corporation (“Southern”). Southern advertised its pilot jobs as a good opportunity to gain training and flight hours, but when pilots began working for Southern, they allege to have experienced pervasive safety problems, low pay, and other issues. Southern denies these allegations.

Southern required all new pilot hires to sign a promissory note upon commencement of their employment with Southern. This note (which Class Counsel refers to as the Training Repayment Agreement Provision or “TRAP”), requires the pilots to pay Southern thousands of dollars if they resign, or leave the job for other reasons, before they have worked for Southern for at least 12 months as a pilot-in-command. This payment is ostensibly designed to reimburse Southern for the cost of the training it invests

in each pilot. But Ryan and Hilliard contend the training is exclusive to Southern and its fleet; the training does not help the pilots when they take other jobs in the future. In addition, Plaintiffs alleged that the cost recovered by Southern far exceeded the value of the training and was punitive in nature. Southern denies these allegations as well.

Both Ryan and Hillard left their positions at Southern before the 12-month period expired. Southern sued Ryan for the balance allegedly remaining in his TRAP, \$3,333.33. Southern has not yet sued Hillard, although Southern's Human Resources Department told Hillard that he must pay \$666.67 "to avoid further action." As of January 2025, Southern had filed more than 120 debt-collection cases against its former pilots in Palm Beach courts.

Southern filed the instant case against Ryan to collect the debt he ostensibly owed. Ryan answered and, along with Hillard, filed counterclaims and class action allegations against Southern. Ryan and Hillard alleged that (a) Southern violated the Fair Labor Standards Act, 29 U.S.C. § 216, and the Trafficking Victims Protection Act, 18 U.S.C. § 1589(a), (b) Southern's TRAP imposed an unlawful restraint on trade in violation of Florida Statutes § 542.18 et seq., and (c) Plaintiffs were entitled to injunctive and declaratory relief. Southern moved to dismiss the counterclaims, and the Court denied this motion. In December 2025, the parties notified the Court that they had reached a settlement. The Settlement Agreement, signed by all parties, is attached as Exhibit A.

II. SUMMARY OF THE PARTIES' SETTLEMENT AGREEMENT

A. Class Definitions

Defendant Class: All of Southern's pilots subject to Southern's TRAP agreement who have been sued to collect the TRAP debt in Palm Beach County.

TRAP Agreement Class: All of Southern's pilots subject to Southern's TRAP agreement who have not been sued to collect the TRAP debt in Palm Beach County.

Defendant Disgorgement Sub-class: All members of the Defendant Class who made a payment or partial payment to Southern pursuant to the TRAP.

B. Monetary and Non-Monetary Relief and Settlement Allocations

Class members who receive notice but do not opt-out will be bound by the settlement and, if they do not exercise cash relief, their check will go to a *cy pres* recipient.

The relief provided to the Classes are as follows:

1. **Dismissal of all Lawsuits Pending:** All active lawsuits, including those in collections and post-judgment, against the Defendant Class will be dismissed without prejudice. The specific notice, to be filed by Southern, will be approved by Class Counsel.
2. **Cancellation of the TRAP:** Southern's TRAP, an example of which is attached as Exhibit B, will be canceled and declared void as to all Defendant Class and TRAP Agreement Class Members.
3. **Debt Declared Void:** Southern will declare null and void the approximately \$1,600,000 purportedly owed to it under the TRAP by the Defendant Class and the TRAP Agreement Class.
4. **Removal of Negative Reporting:** If any negative reporting on any Class Member's

record exists, arising out of or relating to the TRAP, Southern agrees to remove such reporting.

5. Non-monetary Relief: Southern agrees not to use a promissory note that is substantially similar to the challenged aspects of the TRAP, an example of which is attached as Exhibit B, in the future.
6. Disgorgement: Southern shall return 55% of the monies collected from the Defendant Disgorgement Class, totaling an estimated \$156,750.
7. Class Representative Awards: Southern shall pay class representative awards of \$2,500 to Counter-Plaintiffs as class representatives.
8. Attorney's Fees and Costs: Southern Airways agrees to pay Class Counsel attorneys' fees in the amount of \$177,250 and costs in the amount of \$11,000.

C. Scope of the Release

The Class Members will release Southern from all claims arising out of the TRAP, and Southern will release the Class Members from all claims arising out of their employment and the TRAP.

III. STANDARD FOR PRELIMINARY APPROVAL UNDER RULE 1.220

Florida Rule of Civil Procedure 1.220(e) requires judicial approval of any class settlement that will bind class members. Since Rule 1.220 is nearly identical to the federal class action rule, Florida courts look to federal law for guidance. *See, e.g., City of Pompano Beach v. Fla. Dep't of Agric.*, No. 00-18394(08), 2002 WL 1558217, at *2 (Fla. Cir. Ct. Jan. 24, 2002). And courts are guided by the "strong judicial policy favoring settlement as well as by the realization that compromise is the essence of settlement." *Bennett v. Behring Corp.*, 737 F.2d 982, 986 (11th Cir. 1984). The policy favoring settlement is especially relevant in class actions and other complex matters, where the

inherent costs, delays, and risks of continued litigation might otherwise overwhelm any potential benefit the class could hope to obtain. *See, e.g., Ass'n for Disabled Americans, Inc. v. Amoco Oil Co.*, 211 F.R.D. 457, 466 (S.D. Fla. 2002) (“There is an overriding public interest in favor of settlement, particularly in class actions that have the well-deserved reputation as being most complex.”) (*citing Cotton v. Hinton*, 559 F.2d 1326, 1331 (5th Cir. 1977)); *see also 4 Newberg on Class Actions* § 11.41 (4th ed. 2002) (citing cases).

When considering preliminary approval, courts have first considered the request for class certification. *Grosso v. Fidelity National Title Ins. Co.*, 983 So.2d 1165, 1170 (Fla. 3d DCA 2008). Then, if class certification is appropriate, the court considers the terms of the proposed settlement and whether the agreement is fair, reasonable, and adequate. *See id.* at 1173-74 (*citing* Fed. R. Civ. P. 23(e)(1)(C), and *Ramos v. Philip Morris Cos.*, 743 So.2d 24, 31 (Fla. 3d DCA 1999)); Fed. R. Civ. P. 23(e).

Granting preliminary approval here will allow all Class Members to receive notice of (a) the proposed settlement terms and (b) the date and time of the final settlement hearing at which class members may be heard and at which further evidence and argument concerning the fairness, adequacy, and reasonableness of the settlement may be presented. *See Manual for Compl. Lit.*, §§ 13.14, 21.632. However, neither formal notice to the class nor an evidentiary hearing is required at the preliminary approval stage. *Id.* § 13.14. Instead, the Court may grant such relief upon an informal application by the settling parties and may or may not conduct a hearing. *Id.*

IV. THE COURT SHOULD CERTIFY THE SETTLEMENT CLASS.¹

¹ For settlement purposes only, Southern does not oppose Counter-Plaintiffs' request that this Court certify the classes as defined in the Settlement Agreement.

To certify a class, a court must find that the proposal satisfies all elements under Rule 1.220(a) (*i.e.*, numerosity, commonality, typicality and adequacy of representation) and at least one of the elements of Rule 1.220(b) (*e.g.*, common questions of law or fact predominate over individual questions and class representation is superior to other methods for the fair and efficient adjudication). Here, all of the requirements are met.

Numerosity. The first requirement for certification under Rule 1.220(a) is numerosity, which means a class must be so numerous that “separate joinder of each member is impracticable.” Fla. R. Civ. P. 1.220(a)(1). Plaintiffs do not need to present a minimum or maximum number of class members to satisfy the numerosity requirement; classes with as few as 25 members have satisfied the numerosity requirement. *See Terry L. Braun, P.A. v. Campbell*, 827 So. 2d 261, 264 (Fla. 5th DCA 2002) (court held that class of 25 to 31 individuals met numerosity requirement); *see, e.g., Estate of Bobinger v. Deltona*, 563 So. 2d 739, 743 (Fla. 2d DCA 1990). Florida courts also analyze whether separate joinder would be impractical. But, as the Fourth District Court of Appeals noted, “[i]mpractical’ does not mean impossible, and numerosity is satisfied if it would be difficult to join all the members of the class.” *Olen Props. Corp. v. Moss*, 981 So. 2d 515, 519 (Fla. 4th DCA 2008) (citation omitted), *review denied*, 996 So. 2d 858 (Fla. 2008).

Here, there are approximately 82 members of the Defendant Class, 55 members of the Defendant Disgorgement Sub-class, and 200 members of the TRAP Agreement Class. It would be extremely difficult to join each affected individual.

Commonality. The claims of the class representatives must raise questions of law or fact common to the class, Fla. R. Civ. P. 1.220(a)(2), but they do not need to be identical, *Broin v. Philip Morris Companies, Inc.*, 641 So. 2d 888, 891 (Fla. Dist. Ct. App. 1994). Here, the counterclaims are based on the TRAP provisions, which are substantially

identical for all members of the proposed class, and raise the common question of whether those provisions are valid. Some of the class members (*i.e.*, Defendant Class) have been sued by Southern while other class members (*i.e.*, TRAP Agreement Class) have not yet been sued, but that distinction impacts remedies rather than the legality of the TRAP.

Typicality. The claims of the class representatives must be typical of the class claims. Fla. R. Civ. P. 1.220(a)(3). Mere factual differences between the class representative's claims and the claims of the class members will not defeat typicality. *See Smith v. Glen Cove Apartments Condominiums Master Ass'n, Inc.*, 847 So. 2d 1107, 1111 (Fla. 4th DCA 2003) (*citing Broin*, 641 So. 2d at 888).

Ryan's claims are typical of the Defendant Class, and Hillard's claims are typical of the TRAP Agreement Class. Ryan's and Hillard's claims arise from the same course of conduct—*i.e.*, Defendant's use of the TRAP—and are presented under the same legal theories as the claims of other class members. *See Sosa v. Safeway Premium Fin. Co.*, 73 So. 3d 91, 114 (Fla. 2011) (characterizing the "key inquiry" as addressing "whether the class representative possesses the same legal interest and has endured the same legal injury as the class members") (*citing Morgan v. Coats*, 33 So. 3d at 65). Like other members of the Defendant class, Ryan was sued by Southern, and like other members of the TRAP Agreement Class, Hilliard was not. Members of the Disgorgement Sub-class are all members of the Defendant Class, and are simply distinguished by having made payment on the TRAP. Thus, they will receive monetary payment under the settlement in addition to the relief applicable to other class members, but the factual basis underlying their claims and the legal theories advanced on their behalf are the same.

Adequacy of Representation. To grant class certification, a trial court must

determine that “the representative party can fairly and adequately protect and represent the interests of each member of the class.” Fla. R. Civ. P. 1.220(a)(4). This concept can be reduced to two prongs: (1) whether class counsel has the qualifications, experience, and ability to conduct the litigation, and (2) whether the interests of the class representatives are antagonistic to the interests of the class members. *Sosa*, 73 So. 3d at 115.

Here, counsel for counter-plaintiffs have substantial experience in consumer and employment class actions and are adequate to act as counsel in this class action lawsuit. (See Exhibit C, Newsome Declaration; Exhibit D, Dempsey Declaration). Additionally, Plaintiffs’ counsel have ample experience litigating various types of consumer and employment cases, including numerous other class actions based on a TRAP. And Ryan and Hillard, the proposed class representatives, have shown that they are willing and able to take an active role on behalf of the class. Ryan and Hillard have participated in strategy, planning, investigation, mediation, and produced voluminous discovery including thousands of pages of communications. Class Counsel has uncovered no evidence indicating that either Ryan or Hilliard has any interest antagonistic to the class he seeks to represent. Both have sufficient knowledge of the nature of the lawsuit to be adequate class representatives.

Predominance. Rule 1.220(b)(3) requires that the “questions of law or fact common to the claim or defense of the representative party and the claim or defense of each member of the class predominate over any questions of law or fact affecting only individual members of the class.” Fla. R. Civ. P. 1.220(b)(3). Florida courts have held that common questions of fact predominate when the defendant acts toward the class members in a similar or common way. *See Stone v. CompuServes Interactive Servs., Inc.*, 804 So. 2d 383, 388 (Fla. 4th DCA 2001). Predominance does not mean that all questions

of fact or law are common. *See Sacred Heart Health Sys., Inc. v. Humana Military Healthcare Servs., Inc.*, 601 F.3d 1159, 1178 (11th Cir. 2010). Rather, the parties can satisfy predominance by showing that some questions are common and that they predominate over individual questions. *See id.* (citing *Klay v. Humana, Inc.*, 382 F.3d 1241, 1254 (11th Cir. 2004)).

Here, Southern engaged in a common course of conduct, namely, requiring all pilots to agree to a TRAP. And Southern used the same or substantially similar TRAP forms for each pilot. The legality of the TRAP provisions is the predominant question in this litigation, and it overshadows all individual questions.

Superiority. To satisfy Rule 1.220(b)(3), Plaintiffs must also show that “class representation is superior to other available methods for the fair and efficient adjudication of the controversy.” Fla. R. Civ. P. 1.220(b)(3). Courts consider “(1) whether a class action would provide the class members with the only economically viable remedy, (2) whether there is a likelihood that the individual claims are large enough to justify the expense of separate litigation, and (3) whether a class action cause of action is manageable.” *Sosa*, 73 So. 3d at 116.

Resolving the instant matter on a class-wide basis will be economical, but individually litigating claims like this would likely be cost-prohibitive. This is especially so given that most of the affected pilots did not make a payment to Southern pursuant to the TRAP and therefore have claims ill-suited to the typical contingency-fee arrangement common in plaintiff-side consumer and employment cases. Without a class action, it’s unlikely that these affected pilots would be able to challenge Southern’s practices in court. This is evidenced by the fact that few of the 120 pilots that Southern sued secured individual representation; those that did mount a challenge to Southern’s lawsuit largely

proceeded *pro se*. Finally, because certification would be for settlement purposes only, manageability is not a concern. *See Amchem Prod., Inc. v. Windsor*, 521 U.S. 591, 620 (1997).

V. THE COURT SHOULD GRANT PRELIMINARY APPROVAL BECAUSE THE SETTLEMENT IS WITHIN THE RANGE OF REASONABLENESS.

Once the Court has found that the class will likely meet the requirements for certification, the analysis turns to the terms of the proposed settlement. One purpose of this preliminary evaluation is to determine whether the settlement is within the “range of reasonableness” such that notice should issue to the class. *4 Newberg* § 11.26. *Grosso*, 983 So. 2d at 1173-74 (*citing* Fed. R. Civ. P. 23(e)(1)(C)). Courts may consider the following factors derived from Federal Rule of Civil Procedure 23(e)(2) and, in the Eleventh Circuit, from *Bennett v. Behring Corporation*, 737 F.2d 982, 986 (11th Cir.1984)).

The Case’s Complexity, Duration, and Procedural Posture. The legal and factual questions surrounding Southern’s TRAP are relatively complex. Courts have not had many opportunities to weigh in on whether and under what circumstances employees should be forced to pay for an employer-provided, mandatory training class and whether employers can condition repayment on the length of the employee’s employment. Regarding duration, this case was first filed in county court in August 2023, and the parties have not yet engaged in discovery (other than for settlement). If the parties were to litigate, the affected pilots would wait years for class certification, motions practice, trial, and appeals to conclude.

The Risks and Costs of Continued Litigation. The relative novelty of this type of case presents inherent risks. Courts are split on whether arrangements similar to Southern’s TRAP run afoul of the law or lend themselves to class actions. *See e.g., Panwar*

v. Access Therapies, Inc., No. 1:12-cv-00619-TWP-TAB, 2015 WL 1396599, at *9 (S.D. Ind. Mar. 25, 2015) (granting recruiter-employer’s motion for summary judgment when employer sought to be repaid for cost of visa for foreign-born employee); *Paguirigan v. Prompt Nursing Emp. Agency LLC*, No. 17-CV-1302 (NG) (JO), 2021 WL 2206738, at *1 (E.D.N.Y. June 1, 2021) (granting nurse-employee’s motion for summary judgment). Full-blown discovery and motions practice would also take a significant amount of legal work, raising the cost of attorneys’ fees.

The Settlement Would Foreclose Additional Debt-Collection Lawsuits and Payments by Pilots. Under its terms, Southern would agree not to file any more debt-collection lawsuits based on its TRAPs. And Southern’s former pilots who have made TRAP payments, likely due to fear and a desire to avoid negative marks on their flying record, would be much less likely to pay Southern after they receive notice that the Court has preliminarily approved the settlement. Southern Airways new parent company, through a merger, Surf Air Mobility has rescinded the TRAP via company policy communicated to all affected employees. Thus, this Settlement resolves not only the instant case, but also resolves the remaining debt collection cases Southern has filed against the Defendant Class and forecloses the possibility of future lawsuits, efficiently relieving pressure on the judicial system.

The Settlement Provides Significant Relief to Class Members. The settlement provides monetary and significant non-monetary relief to class members and covers all costs and attorneys’ fees incurred in prosecuting the case.² The settlement

² With regard to attorneys’ fees, the Third District Court of Appeal has noted that, “[w]hile the trial court and this court must review the fees for reasonableness, it is highly significant that the class members bear no part of that particular burden. An adversary, State Farm, has made its own preliminary assessment of reasonableness.”

agreement is the entirety of the parties' agreement, and this fact also supports approval. See Fed. R. Civ. P. 23(e)(2)(C)(iv).

The Class Representatives and Class Counsel Have Adequately Represented the Class. Class Counsel have significant experience in class-action litigation and settlements. (See Newsome Decl. ¶¶ 4-15.; Dempsey Decl. ¶¶ X) Together with the Class Representatives, they have zealously represented the class throughout this case and will continue doing so through the conclusion of the settlement process. By signing the Settlement Agreement and submitting this motion for preliminary approval, the class representatives and Class Counsel have indicated their support of the proposed settlement.

The Settlement Was Negotiated at Arm's Length Without Fraud or Collusion. The parties negotiated at arms-length. The parties conducted zoom mediation sessions on June 19, 2025 and July 10, 2025. Thereafter, the parties continued to negotiate through shuttle diplomacy until reaching settlement terms on December 22, 2025. See *Saccoccio v. JP Morgan Chase Bank, N.A.*, 297 F.R.D. 683, 692 (S.D. Fla. 2014) ("Where the parties have negotiated at arm's length, the Court should find that the settlement is not the product of collusion.").

The Settlement Treats Class Members Equitably Relative to Each Other. The Settlement Agreement divides the Settlement Fund in an equitable manner, refunding each Defendant Disgorgement Sub-class Member a significant portion of the money they paid to Southern pursuant to the TRAP. (See *supra* at XX.) And the

Altamonte Springs Imaging, L.C. v. State Farm Mut. Auto. Ins. Co., 12 So. 3d 850, 853 (Fla. Dist. Ct. App. 2009). The same is true here: Southern has made its own assessment of reasonableness. Furthermore, Plaintiffs' petition for fees and costs will demonstrate that any recovery for the attorneys in this case is more than reasonable.

Settlement Agreement provides non-monetary relief in an equitable manner, too, requiring Southern to dismiss all lawsuits filed against the Defendant Class and declare the TRAP debt void for all Class Members. The goal was to return all Class Members to the same position they would have been in, but for the TRAP.

VI. THE COURT SHOULD APPROVE DISTRIBUTION OF THE CLASS NOTICES.

Notice is an integral part of Rule 1.220. Fla. R. Civ. P. 1.220(d)(2). The parties have attached their proposed notice as Exhibit E. This proposed notice includes all the information required by Rule 1.220, and Southern has agreed to create a settlement website to provide access to as many affected pilots as possible.

VII. CONCLUSION

For the reasons set forth above, this Court should enter the Proposed Preliminary Approval Order, submitted to the Court along with this Motion, allowing notice to be issued to the class and taking this Settlement to the next stage of resolution.

Respectfully submitted March 9, 2026.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 9, 2026, I electronically filed the foregoing document with the Clerk of Court using the Florida Courts E-Filing Portal. I also certify that the foregoing document is being served this day on all counsel of record and interested parties, via transmission generated by the Florida Courts E-Filing Portal.

/s/ Jeffrey L. Newsome, II
Jeffrey L. Newsome, II