

*Southwest Airlines Pilots USERRA Sick Leave and 401(k) Retirement Account Litigation*

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

*Huntsman v. Southwest Airlines Co., No. 4:17-cv-03972-JD (N.D. Cal.)*

*A Federal Court authorized this Notice. This is not a solicitation from a lawyer.*

**If you were a Southwest Airlines pilot who took short-term military leave on or after January 1, 2001, you could get money or additional benefits from this class action settlement.**

- A Southwest Airlines pilot (the “Plaintiff”) has sued Southwest Airlines Co. (“Southwest”) alleging that Southwest violated USERRA by failing to (i) provide its pilots matching contributions to their 401(k) accounts for their deemed earnings during periods of Short-Term Military Leave for elective deferrals made to the 401(k) Plan, (ii) provide timely information to pilots on their deemed earnings from Short-Term Military Leave so that they can make make-up retirement contributions into their 401(k) accounts, and (iii) provide matching contributions to pilots’ make-up contributions to their 401(k) accounts from periods of Short-Term Military Leave. Plaintiff also alleged that Southwest violated USERRA by failing to provide for the accrual of sick leave when pilots take Short-Term Military Leave, because Southwest provides for the accrual of sick leave when pilots engage in jury duty, union leave, and bereavement leave.
- The Court has determined that the lawsuit can proceed as a class action on behalf of a group of all former or current Southwest pilots who took Short-Term Military Leave from Southwest between January 1, 2001 and December 5, 2018.
- Under the Settlement, if you are a current or former Southwest pilot you may be eligible to receive an additional employer contribution to your 401(k) Plan account if you took Short-Term Military Leave from Southwest from January 1, 2001 to December 31, 2013. You may also be eligible to have accrued sick leave added to your sick leave balance or receive a cash payment if you took Short-Term Military Leave from Southwest from January 1, 2001 to December 5, 2018. To the extent feasible, any retirement-related payments under this Settlement will be made as an additional employer contribution to your 401(k) Plan account in a tax-deferred manner.
- If, 30 days after the Settlement becomes final and non-appealable (“Effective Date”), you are a current Southwest employee who is eligible to recover under the Settlement, all accrued sick leave that you are entitled to receive will be added to your sick leave balance. If, 30 days after the Effective Date of the Settlement, you are a former Southwest employee who is eligible to recover under the Settlement, you will receive a one-time payment of \$1,000, unless you are a retired pilot and have exchanged your accrued sick leave for continued health care coverage and are still receiving continued health care coverage, in which case you will receive all accrued sick leave that you are entitled to receive under the Settlement for use toward continued health coverage.
- You have received this Notice because Southwest has identified you as either as a Class Member or a potential Class Member. To determine whether you need to submit additional information before it is possible to determine whether you qualify as a Class Member, please visit [www.southwestpilotsUSERRAsettlement.com](http://www.southwestpilotsUSERRAsettlement.com) and enter your unique code, <XXXX>, and your password, <XXXX>.
- The Court has preliminarily approved the Settlement. For the Settlement to become final and any payments or benefits to be distributed, the Court will need to issue final approval after a final approval hearing, which is currently scheduled for June 20, 2019. This date is subject to change without further notice. Please check [www.southwestpilotsUSERRAsettlement.com](http://www.southwestpilotsUSERRAsettlement.com), or access the docket at [www.pacer.gov](http://www.pacer.gov) for the most up-to-date information.

**PLEASE READ THIS NOTICE CAREFULLY.  
IF YOU ARE A MEMBER OF THE CLASS, THIS SETTLEMENT WILL AFFECT YOUR RIGHTS.**

<b>SUMMARY OF YOUR LEGAL RIGHTS &amp; OPTIONS</b>	
<b>CURRENT SOUTHWEST PILOTS</b>	<b>OPTION #1: DO NOTHING.</b> If you have been identified by Southwest as a Class Member and the Settlement is approved by the Court, you will receive additional accrued sick leave for periods of Short-Term Military Leave you took from January 1, 2008 to December 5, 2018 pursuant to a formula set forth in the Settlement, and you will receive retirement contributions or cash payments for periods of Short-Term Military Leave you took from January 1, 2008 to December 31, 2013, based upon a Plan of Allocation approved by the Court.
	<b>OPTION #2: FILE A CLAIM FORM TO RECEIVE ADDITIONAL SETTLEMENT BENEFITS.</b> If you took Short-Term Military Leave from January 1, 2001 to December 31, 2007, you may file a Claim Form to identify the number of days of Short-Term Military Leave that you took during this period. Based on the information in your Claim Form, you may receive additional accrued sick leave and a larger share of the Settlement Fund for your retirement-related claims. In addition, if you have not been identified by Southwest as a Class Member, you may submit a Claim Form to demonstrate that you are a Class Member and be included in the Class and the Settlement.
	<b>OPTION #3: OBJECT/COMMENT.</b> You may write to the Court and explain why you do not like one or more aspects of the proposed Settlement. You must do so by no later than <b>May 6, 2019</b> .
	<b>OPTION #4: EXCLUDE.</b> You may opt out of the Settlement by writing to the Court by <b>May 6, 2019</b> .
<b>FORMER SOUTHWEST PILOTS</b>	<b>OPTION #1: DO NOTHING.</b> If you have been identified by Southwest as a Class Member and the Settlement is approved by the Court, you will receive retirement contributions or cash payments based upon the data that Southwest has for Short-Term Military Leave that you took from January 1, 2008 to December 31, 2013 and based upon a Plan of Allocation approved by the Court. In addition, if, 30 days after the Effective Date of the Settlement, you are a former Southwest employee who is eligible to recover under the Settlement, you will receive a one-time payment of \$1,000, unless you are a retired pilot and have exchanged your accrued sick leave for continued health care coverage and are still receiving continued health care coverage, in which case you will receive all accrued sick leave that you are entitled to receive under the Settlement for use toward continued health coverage.
	<b>OPTION #2: FILE A CLAIM FORM TO RECEIVE ADDITIONAL SETTLEMENT BENEFITS.</b> If you took Short-Term Military Leave from January 1, 2001 to December 31, 2007, you may file a Claim Form to identify the number of days of Short-Term Military Leave that you took during this 2001-2007 period. By filing such a Claim Form, you may receive a larger share of the Settlement Fund for your retirement-related claims. If you have exchanged your accrued sick leave for continued health care coverage, you may also have additional sick leave added to your sick leave balance. If you are a former Southwest pilot who took Short-Term Military Leave from January 1, 2001 to December 31, 2007 and are not already eligible for a one-time payment of \$1,000 based on Short-Term Military Leave taken after December 31, 2007, you may receive the one-time payment of \$1,000 by submitting a claim form. In addition, if you have not been identified by Southwest as a Class Member, you may submit a Claim Form to demonstrate that you are a Class Member and be included in the Class and the Settlement.
	<b>OPTION #3: OBJECT/COMMENT.</b> You may write to the Court and explain why you do not like one or more aspects of the proposed Settlement. You must do so by no later than <b>May 6, 2019</b> .
	<b>OPTION #4: EXCLUDE.</b> You may opt out of the Settlement by writing to the Court by <b>May 6, 2019</b> .

**If you have any questions after you have read this Notice, contact Class Counsel; PLEASE DO NOT CONTACT THE COURT as they will not be able to answer your questions.**

**WHAT THIS NOTICE CONTAINS**

**BASIC INFORMATION** ..... 4

1. Why did I receive this Notice? ..... 4

2. What is this lawsuit about? ..... 4

3. What has happened so far in the lawsuit?..... 4

**THE CLASS**..... 5

4. What is a Class Action? ..... 5

5. Who is included in the Class?..... 5

**THE SETTLEMENT** ..... 5

6. What does the Settlement provide? ..... 5

7. What do I give up as a result of the Settlement? ..... 6

8. Why is there a Settlement? ..... 6

9. What additional accrued sick leave will I receive under the settlement? ..... 6

9. What additional retirement contributions or cash payments will I receive under the settlement? ..... 6

10. When would I receive my additional sick leave under the Settlement? ..... 7

11. When would I receive my additional retirement contributions or payments related to retirement claims?..... 7

12. Will I have to pay taxes on the additional employer retirement contributions that I receive?..... 7

**EXCLUSION & OBJECTIONS** ..... 7

13. If I want to get out of the Settlement, what should I do?..... 7

14. If I do not exclude myself, can I sue Defendant for the same thing later?..... 8

15. If I exclude myself, can I still get benefits from the Settlement? ..... 8

16. How do I tell the Court what I think about the Settlement? ..... 8

17. What’s the difference between objecting and asking to be excluded?..... 8

**THE FINAL APPROVAL HEARING** ..... 8

18. When and where will the Court hold the hearing? ..... 8

19. Do I have to come to the Final Approval Hearing? ..... 8

20. May I speak at the Final Approval Hearing?..... 9

21. What happens if I do nothing at all?..... 9

**THE LAWYERS REPRESENTING YOU**..... 9

22. Do I have a lawyer in this case? ..... 9

23. How will the lawyers for the Class be paid? ..... 9

**THE SETTLEMENT IS NOT YET FINAL** ..... 9

24. Can the Settlement be terminated? ..... 9

**GETTING MORE INFORMATION** ..... 10

25. How do I get more information? ..... 10

26. How do I ensure that I receive any updates? ..... 10

27. Whom do I call about questions?..... 10

## BASIC INFORMATION

### 1. Why did I receive this Notice?

All current or former Southwest pilots who took Short-Term Military Leave (*i.e.*, one or more military leaves each totaling 14 days or less) from Southwest from January 1, 2001 to the December 5, 2018 are Class Members in this case. You received this Notice because the Court has ordered that it be sent to the persons whom Defendant Southwest Airlines identified as Class Members or potential Class Members. Southwest's records show that you either (i) took Short-Term Military Leave from Southwest sometime between January 1, 2008 and December 5, 2018, which means that you are a Class Member, or (ii) were a pilot with military status who was employed by Southwest between January 1, 2001 and December 31, 2007, which means that you may be a Class Member. If you do not know whether you are a Class Member or a potential Class Member, please visit [www.southwestpilotsUSERRAsettlement.com](http://www.southwestpilotsUSERRAsettlement.com) and enter your unique code, <XXXX>, and your password, <XXXX>. This case is pending in the United States District Court for the Northern District of California, and is called *Huntsman v. Southwest Airlines Co.*, No. 4:17-cv-03972-JD (N.D. Cal.).

This Notice informs you of a proposed settlement (referred to as "Settlement" or "Settlement Agreement") of this class action consisting of \$5,800,000 in cash that will be used to make additional 401(k) retirement contributions to Class Members ("the Settlement Fund"), among other payments, and the recovery of accrued sick leave for eligible Class Members who took Short-Term Military Leave from January 1, 2001 to December 5, 2018. This Notice describes your rights and options in connection with the Settlement.

### 2. What is this lawsuit about?

The lawsuit is a class action brought under the Uniformed Services Employment and Reemployment Act ("USERRA"). The USERRA law provides servicemembers and veterans with a range of rights and benefits, including protections for reservists who take military leave from civilian employers like Southwest.

The Class Representative who brought the lawsuit is a Southwest pilot who has participated in the Southwest Airlines Pilots 401(k) Plan ("401(k) Plan"). The Defendant is Southwest Airlines.

The lawsuit claims that Southwest violated USERRA by failing to (i) provide its pilots matching contributions to their 401(k) accounts for the deemed earnings during periods of Short-Term Military Leave for elective deferrals made to the 401(k) Plan, (ii) provide timely information to pilots on their deemed earnings from Short-Term Military Leave so that they can make make-up retirement contributions into their 401(k) accounts, and (iii) provide matching contributions to pilots' make-up contributions to their 401(k) accounts from periods of Short-Term Military Leave. The lawsuit also claims that Southwest violated USERRA by failing to provide for the accrual of sick leave when pilots take Short-Term Military Leave, because Southwest provides for the accrual of sick leave when pilots engage in jury duty, union leave, and bereavement leave. Southwest has denied the claims in this lawsuit.

Additional information about the claims and a copy of the Complaint are available at [www.southwestpilotsUSERRAsettlement.com](http://www.southwestpilotsUSERRAsettlement.com).

### 3. What has happened so far in the lawsuit?

Plaintiff filed the Complaint on July 14, 2017. On September 15, 2017, Plaintiff and Southwest stipulated to stay the litigation to allow them to explore settlement of the lawsuit. The Court granted the stipulation to stay the case on September 21, 2017. The stay was continued numerous times, with the Court most recently staying this matter until September 5, 2018.

During the stay of the lawsuit, Plaintiff and Southwest engaged in substantial informal discovery (a process through which the parties exchange information without directly involving the court) on issues related to liability, damages, and class certification. Plaintiff and his counsel obtained from Southwest information and documents about Southwest's policies and practices, as well as personnel data about the Class Members so that the Class Members' potential damages and relief could be estimated. Numerous conversations took place between the parties and their counsel, including in-person meetings and mediations between the parties' counsel. After a two-day mediation on June 26 and June 27, 2018, supervised by an experienced mediator who is a former state Supreme Court judge, the parties reached an Agreement in Principle to resolve the lawsuit.

On December 5, 2018, the Court certified a Class as to all claims and appointed Plaintiff's counsel as Class Counsel and Plaintiff as the Class Representative. The Court has not ruled on the merits of any claims or defenses.

On December 5, 2018, the Court preliminarily approved the Settlement and has scheduled a final hearing to evaluate the fairness and adequacy of the Settlement.

## THE CLASS

### 4. What is a Class Action?

A class action is a lawsuit in which the claims and rights of many people are decided in a single court proceeding. In a class action, one or more people, called Plaintiffs, file suit on behalf of others with similar claims, called the Class or Class Members. If a class is certified, the Court appoints a person, called the Class Representative, to represent and act on behalf of the class. Here the Class Representative is Jayson Huntsman.

### 5. Who is included in the Class?

The Class is defined as all former or current pilots employed by Southwest who took Short-Term Military Leave from Southwest between January 1, 2001 and December 5, 2018. The class period for the 401(k) Plan claims is January 1, 2001 to December 31, 2013. The class period for sick leave claims is January 1, 2001 to December 5, 2018. Southwest has only identified pilots who fall within the Class definition who were employed by Southwest from January 1, 2008 to the present. If you fall within this definition but your employment with Southwest terminated between January 1, 2001 and December 31, 2007, you must file a claim form to identify yourself and receive your share of the Settlement. If you do not know whether you have been identified as a Class Member, please visit [www.southwestpilotsUSERRAsettlement.com](http://www.southwestpilotsUSERRAsettlement.com) and enter your unique code, <XXXX>, and your password, <XXXX>.

If you are included in the above definition, you will be included in the Class unless you exclude yourself. If you are unsure about whether you are a Class Member, you can contact the lawyers representing the Class by telephone at 212-245-1000 or e-mail at [SWASettlement@outtengolden.com](mailto:SWASettlement@outtengolden.com). The lawyers' contact information is listed in the response to Question 22.

## THE SETTLEMENT

### 6. What does the Settlement provide?

The Settlement provides equitable and monetary relief to Class Members who were allegedly denied sick leave and matching retirement contributions for periods of Short-Term Military Leave in the past. In addition, in the future Southwest will agree to provide accrued sick leave for periods in which pilots take Short-Term Military Leave.

#### **The Settlement Agreement provides the following equitable and monetary relief:**

- **Sick Leave Benefits.** If you are a current Southwest pilot who is a Class Member, the Settlement provides you with additional sick leave for periods in which you took Short-Term Military Leave but did not receive accrued sick leave from January 1, 2001 to December 5, 2018. For periods of Short-Term Military Leave from January 1, 2008 to December 5, 2018 you will automatically receive an additional 0.71 Trips for Pay ("TFP") of sick leave in your sick leave balance for every day of work you dropped to take Short-Term Military Leave. Also, if you file a Claim Form identifying yourself as having taken Short-Term Military Leave in any year from 2001 to 2007, you will receive an additional 8.5 TFP of sick leave for the year in which the Short-Term Military Leave was taken. The additional sick leave that you receive cannot increase your sick leave balance beyond the maximum sick leave balance of 1,600 TFP (the 1,600 figure is set by the Collective Bargaining Agreement between Southwest and the Southwest Airlines Pilots Association). If, 30 days after the Effective Date of the Settlement, you are a former Southwest employee who is eligible to recover under the Settlement, you will receive a one-time payment of \$1,000, unless you are a retired pilot and have exchanged your accrued sick leave for continued health care coverage and are still receiving continued health care coverage, in which case you will receive all accrued sick leave that you are entitled to receive under the Settlement for use toward continued health coverage. Any \$1,000 cash payments associated with sick leave claims will be made from the \$5,800,000 Settlement Fund described in the next paragraph.
- **Retirement Contributions and Payments.** The proposed Settlement provides a common fund of \$5,800,000 that will be used (1) to make supplemental retirement contributions to Class Members' Southwest 401(k) Plan account to the greatest extent permitted under the law or, if it is not possible to make retirement contributions directly into Class Members' 401(k) Plan account, to make a cash payment for Class Members' USERRA retirement-related claims; (2) pay attorneys' fees and costs; (3) pay a service award to the Class Representative; (4) pay for notice and settlement administration costs and related tax expenses; and (5) provide payments to Class Members who are former employees (as described in the prior paragraph). After the payment of any attorneys' fees and costs, a service award, notice and administration costs, taxes, and payments to Class Members who are former employees, the remaining Settlement Fund will be distributed under a proposed distribution methodology called the Plan of Allocation described below (unless the Court modifies the Plan of Allocation).

#### **The Settlement provides for the following future policy changes and benefits:**

- **Accrual of Sick Leave in the Future.** Under the proposed Settlement, Southwest has agreed to change its policy in the future to provide accrued sick leave for pilots who take Short-Term Military Leave.
- **Information on Deemed Earnings for Retirement Contributions.** Under the proposed Settlement, Southwest has agreed to regularly provide pilots with information about their deemed earnings related to their military leave, and Southwest will provide more detailed information about the calculation of deemed earnings related to military leave upon request by pilots. This

information will help pilots to better and fully understand the retirement contributions that they receive from Southwest for periods of military leave, as required by USERRA.

The Court has not ruled on liability or relief. This Notice is not an expression of opinion by the Court as to the merits of any claim or defense. This Notice does not imply that there has been any violation of law or that the Class will recover if the lawsuit is not settled and instead is resolved in Court by trial or otherwise.

#### **7. What do I give up as a result of the Settlement?**

If you are a Class Member, unless you exclude yourself from the Class, you (including your heirs, beneficiaries, executors, administrators, estates, agents, attorneys, predecessors, successors, and assigns) will release and fully and finally settle, relinquish, waive and discharge, any and all claims, actions, demands, damages, rights, obligations, expenses, costs, causes of action, or liabilities, known or unknown, against Southwest, the 401(k) Plan administrator, the 401(k) Plan sponsor, the 401(k) Plan, 401(k) Plan fiduciaries, and their parents, subsidiaries, agents, employees, and other affiliated persons or entities that (1) arise from or relate to the accrual of sick leave during periods of Short-Term Military Leave from January 1, 2001 through the date of Preliminary Approval, or (2) arise from or relate to employee or employer contributions to your 401(k) account arising from or related to periods of Short-Term Military Leave from January 1, 2001 through December 31, 2013, including those related to the failure to provide you with information regarding your 401(k) account, Short-Term Military Leave, or deemed earnings to facilitate additional contributions to your 401(k) account based on Short-Term Military Leave.

#### **8. Why is there a Settlement?**

In deciding to settle the lawsuit, the Class Representative and Class Counsel considered, among other things (a) the factual record; (b) the potential monetary recovery and potential to change Southwest's policies through litigation; (c) the strength of the Class' claims based on a review of the law and the facts established in discovery and through investigation; (d) the expense and length of continued proceedings, including possible trial and post-trial proceedings and appeals, necessary to prosecute the lawsuit; (e) the risks arising from the existence of unresolved questions of law and fact; (f) the nature and strength of defenses asserted by and available to Southwest; and (g) the risks and uncertainties of continued USERRA class action litigation of this nature. After a thorough review and investigation, the Class Representative and Class Counsel believe that in light of the foregoing considerations, the proposed Settlement is fair, reasonable and adequate and in the best interests of the Class.

#### **9. What additional accrued sick leave will I receive under the settlement?**

If you are a current Southwest pilot who is a Class Member, under the proposed Settlement, for every day that you dropped a trip to take Short-Term Military Leave between January 1, 2008 and the Preliminary Approval Date, Southwest will add to your sick leave balance 0.71 TFP of sick leave. This figure assumes that you would have worked approximately 7.1 TFPs each day that you dropped a trip to take Short-Term Military Leave, and applies the standard rate for accruing sick leave under the SWAPA CBA (1 TFP of accrued sick leave for every 10 TFP earned).

In addition, if you elect to submit a Claim Form to the Settlement Administrator stating each year that you dropped a trip to take Short-Term Military Leave from January 1, 2001 through December 31, 2007, Southwest will add to your sick leave balance 8.5 TFPs of sick leave per year that you attest that you dropped a trip to take Short-Term Military Leave. (This 8.5 TFP figure is 77% of the average annual amount of accrued sick leave that Class Members would have received from 2008 to 2013 had they been permitted by Southwest to accrue sick leave during Short-Term Military Leave.) You do not have to submit a Claim Form, but you will not be eligible for additional sick leave benefits for any trips dropped from January 1, 2001 through December 31, 2007 if you do not submit a Claim Form. The additional accrued sick leave that you receive cannot increase your sick leave balance beyond the maximum balance of 1,600 TFP (a figure set by the SWAPA CBA). The amount of additional accrued sick leave that you will receive under the Settlement does not depend on how much accrued sick leave other Class Members took from January 1, 2001 to the Preliminary Approval Date.

If, 30 days after the Effective Date of the Settlement, you are a former Southwest employee who is eligible to recover under the Settlement, you will receive a one-time payment of \$1,000, unless you are a retired pilot and have exchanged your accrued sick leave for continued health care coverage and are still receiving continued health care coverage, in which case you will receive all accrued sick leave that you are entitled to receive under the Settlement for use toward continued health coverage.

#### **9. What additional retirement contributions or cash payments will I receive under the settlement?**

If you are a Class Member, under the proposed Settlement, for your claims related to retirement contributions under USERRA, you will receive a share of the \$5.8 million Settlement Fund after certain expenses are paid for attorneys' fees and costs, a service award for the Class Representative, the costs of settlement administration, any applicable taxes, and the payments to former Southwest pilots for sick leave claims.

Your share of the Settlement Fund will be based upon Southwest's personnel data from January 1, 2008 to December 31, 2013, any information that you choose to provide if you submit a Claim Form about the Short-Term Military Leave you took from January 1, 2001 to December 31, 2007, and a Plan of Allocation proposed by the parties and approved by the Court. A copy of the Plan of Allocation can be found at [www.southwestpilotsUSERRAsettlement.com](http://www.southwestpilotsUSERRAsettlement.com). Under the proposed Plan of Allocation, Class Members

will receive a pro rata share of the Settlement Funds based on their Recognized Claim, as defined below.

Under the proposed Plan of Allocation, for the 2008 to 2013 period, a Recognized Claim is based on: (1) the number of days each Class Member dropped trips to take military leave, times (2) 7.1 TFP per day, times (3) Class Members' average base rate of pay in the relevant year. For each year during the 2008 to 2013 period, Class Members' additional retirement contribution will be limited if this formula would result in a retirement contribution that causes them to receive more than the annual maximum of \$25,000 of employer contributions for the relevant year.

For each year during the 2001 and 2007 period, a Recognized Claim is based on: (1) one-half of the number of days of Short-Term Military Leave each Class Member took in the year (but this resulting figure shall not exceed 21 days annually or 7 days in a month), times (2) 7.1 TFP, times (3) Class Members' average base rate of pay in the relevant year. For Short-Term Military Leave that occurred prior to October 2004, the Recognized Claim will be reduced by two-thirds to reflect Southwest's affirmative defense that such claims are untimely.

The parties intend to take reasonable steps to have the distribution of retirement-related shares of the Settlement Fund be paid directly into Class Members' individual 401(k) Plan accounts in a tax-deferred manner (just like other previous 401(k) Plan contributions made by Southwest). However, if it is not possible to deposit some or all of a Class Member's retirement-related share of the Settlement Fund into his or her 401(k) Plan account, the Class Member will receive a cash payment, from which payroll taxes and other applicable taxes will be deducted.

#### **10. When would I receive my additional sick leave under the Settlement?**

Class Members' receipt of additional sick leave (or payment) is conditioned on the Court's approval of the Settlement and such approval becoming final and no longer subject to any appeals. If additional sick leave is being deposited in your account, within 30 days of the Effective Date of the Settlement (*i.e.*, 60 days after the Court grants final approval if there is no appeal), Southwest will add to your sick leave balance the amount of accrued sick leave TFP that you are entitled to receive under the Settlement.

#### **11. When would I receive my additional retirement contributions or payments related to retirement claims?**

Class Members' receipt of any retirement contributions or retirement-related payments is conditioned on the Court's approval of the Settlement and such approval becoming Final and no longer subject to any appeals. If there is no appeal, the Settlement will become effective 30 days after the Court enters Final Judgment. Once the Settlement becomes final, it is expected that a distribution to your 401(k) Plan account will occur as soon as possible. However, because Southwest will need to seek and receive guidance from the Internal Revenue Service on whether and what amount of any retirement-related share of the Settlement Fund can be deposited into a 401(k) account and what amount must be paid in cash, and because the Settlement involves 401(k) Plan accounts for a large number of persons, processing all of those distributions may take one or more years. Your patience is appreciated. Updates will be provided at the following web site: [www.southwestpilotsUSERRAsettlement.com](http://www.southwestpilotsUSERRAsettlement.com).

#### **12. Will I have to pay taxes on the additional employer retirement contributions that I receive?**

If you are a Class Member and you do nothing, under the Plan of Allocation proposed by Class Counsel and preliminarily approved by the Court, you will receive a pro rata distribution of the Settlement Fund. The parties intend to take reasonable steps to have the distribution made directly into your individual 401(k) Plan accounts in a tax-deferred manner (just like other previous 401(k) Plan contributions made by Southwest). You should, however, consult your own tax advisor about the tax implications of any money or employer contributions that you receive as part of the Settlement.

### **EXCLUSION & OBJECTIONS**

#### **13. If I want to get out of the Settlement, what should I do?**

If you are a Class Member and you wish to exclude yourself from the Settlement, you must send a letter to the Settlement Administrator that includes the following:

- Your name, address, and telephone number;
- A statement that you want to be excluded from *Huntsman v. Southwest Airlines Co.*, No. 4:17-cv-03972-JD (N.D. Cal.); and
- Your signature.

You must mail your exclusion request, postmarked no later than May 6, 2019, to:

Southwest Airlines Settlement Administrator  
PO Box 1109  
Tallahassee, FL 32302-1109

**14. If I do not exclude myself, can I sue Defendant for the same thing later?**

No. Under the release in the Settlement Agreement, if you are a Class Member and you do not opt of the Settlement, you (including your heirs, beneficiaries, executors, administrators, estates, agents, attorneys, predecessors, successors, and assigns) will release and fully and finally settle, relinquish, waive and discharge, any and all claims, actions, demands, damages, rights, obligations, expenses, costs, causes of action, or liabilities, known or unknown, against Southwest, the 401(k) Plan administrator, the 401(k) Plan sponsor, the 401(k) Plan, 401(k) Plan fiduciaries, and their parents, subsidiaries, agents, employees, and other affiliated persons or entities that (1) arise from or relate to the accrual of sick leave during periods of Short-Term Military Leave from January 1, 2001 through the date of Preliminary Approval, or (2) arise from or relate to employee or employer contributions to your 401(k) account arising from or related to periods of Short-Term Military Leave from January 1, 2001 through December 31, 2013, including those related to the failure to provide you with information regarding your 401(k) account, Short-Term Military Leave, or deemed earnings to facilitate additional contributions to your 401(k) account based on Short-Term Military Leave. If you have a pending lawsuit, speak to your lawyer in that lawsuit immediately.

**15. If I exclude myself, can I still get benefits from the Settlement?**

No. If you are a Class Member and you exclude yourself from the Settlement, you will not receive any additional sick leave or any monetary payment from the Settlement Fund.

**16. How do I tell the Court what I think about the Settlement?**

Any Class Member may object to any aspect of the Settlement or attorneys' fees or expenses by filing a written objection with the Court. To object, you must send a letter or other written statement to the Court saying that you object to the Settlement, the Plan of Allocation and/or the attorneys' fee award. Include your name, address, telephone number, signature, the title of the case, *Huntsman v. Southwest Airlines Co.*, No. 4:17-cv-03972-JD (N.D. Cal.), and an explanation of all reasons you object to the Settlement. Please be advised that failure to include these details may result in the Court refusing to consider your objection.

Your written objection must be filed or postmarked no later than May 6, 2019, and either (1) mailed to the Class Action Clerk, Phillip Burton Federal Building & United States Courthouse, 450 Golden Gate Avenue, San Francisco, CA, 94102, or (2) filed in person at any location of the United States District Court for the Northern District of California.

Your objection should state the supporting bases and reasons for the objection, identify any and all witnesses, documents or other evidence you would like to present at the Final Approval Hearing, and describe the substance of any testimony provided by you or other witnesses.

**IF YOU DO NOT OBJECT IN THE MANNER DESCRIBED IN THIS NOTICE, THE COURT MAY CONCLUDE THAT YOU HAVE WAIVED ANY OBJECTION AND MAY NOT PERMIT YOU TO SPEAK AT THE FAIRNESS HEARING.**

**17. What's the difference between objecting and asking to be excluded?**

Objecting is simply telling the Court that you do not like or disagree with an aspect of the Settlement. You can object to the Settlement only if you are a Class Member and you do not exclude yourself from the Settlement. Excluding yourself from the Settlement is telling the Court that you do not want to be part of the Settlement. If you exclude yourself from the Settlement, you cannot object to the Settlement because you will not be bound by the Settlement.

**THE FINAL APPROVAL HEARING**

**18. When and where will the Court hold the hearing?**

The Final Approval Hearing (also called the Fairness Hearing) will take place before the Honorable James Donato in Courtroom 11 of the United States District Court for the Northern District of California, located at 450 Golden Gate Avenue, 19th Floor, San Francisco, California 94102, at 10 am, on June 20, 2019. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check [www.southwestpilotsUSERRAsettlement.com](http://www.southwestpilotsUSERRAsettlement.com) for updates. At the hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate, how much to pay Class Counsel in fees, what to reimburse Class Counsel for their expenses, and whether to provide Plaintiff with a service award because of his time and expense to bring this lawsuit. If there are objections or comments, the Court will consider them at the hearing. After the hearing, the Court will decide whether to approve the Settlement and enter Final Judgment. We do not know how long these decisions will take. Please be patient.

**19. Do I have to come to the Final Approval Hearing?**

Your attendance is not required, even if you submit a written response. Class Counsel will answer questions the Court may have at the Final Approval Hearing, including any questions about objections. If you or your personal attorney wants to attend the hearing, you

may attend at your own expense. As long as any objection or comment you filed was postmarked by the deadline, the Court will consider it even if you do not attend the Final Approval Hearing.

**20. May I speak at the Final Approval Hearing?**

Yes. You may speak at the Final Approval Hearing, so long as you are a member of the Class and have properly and timely submitted a written response as set forth above and have stated in your response your intention to appear at the Final Approval Hearing.

**21. What happens if I do nothing at all?**

If you do nothing and you are entitled to receive benefits from the Settlement, you will receive those benefits as described above if the Settlement is approved.

**THE LAWYERS REPRESENTING YOU**

**22. Do I have a lawyer in this case?**

Yes. The Court has appointed the following law firms to serve as the attorneys for the Class:

<i>Lead Class Counsel</i>	<i>Additional Class Counsel</i>
<p>OUTTEN &amp; GOLDEN LLP Peter Romer-Friedman 601 Massachusetts Avenue NW Second Floor West Suite Washington, D.C. 20001 Telephone: (202) 847-4400 Facsimile: (202) 847-4410 Email: SWASettlement@outtengolden.com</p> <p>Jahan C. Sagafi Rachel Dempsey One California Street, 12th Floor San Francisco, California 94111 Telephone: (415) 638-8800 Facsimile: (415) 638-8810 Email: SWASettlement@outtengolden.com</p>	<p>CROTTY &amp; SON LAW FIRM, PLLC Matthew Z. Crotty, Esq. 905 W. Riverside Ave., Suite 404 Spokane, WA 99201 Telephone: (509) 850-7011 matt@crottyandson.com</p> <p>LAW OFFICE OF THOMAS G. JARRARD LLC Thomas G. Jarrard, Esq. 1020 N. Washington Dt. Spokane, WA 99201 Telephone: (425) 239-7290 tjarrard@att.net</p>

The Court has approved these law firms to serve as Class Counsel. You have the right to hire your own attorney (at your own expense), but if you are a member of and remain in the Class, you are not required to hire a separate attorney.

**23. How will the lawyers for the Class be paid?**

Class Counsel undertook this matter more than a year and a half ago—following an investigation of several years—on a wholly contingent basis. Subject to approval of the Court, Class Counsel is permitted to seek an award of attorneys’ fees to be paid from the Settlement Fund, and reimbursement of expenses incurred during the litigation. These attorneys’ fees pay for work the attorneys have performed on behalf of the Class and for work yet to be done in helping to administer the Settlement. Before the Final Approval Hearing, Class Counsel will seek the Court’s approval of an award of attorneys’ fees in the amount not to exceed \$1.74 million of the \$5.8 million Settlement Fund plus reimbursement for lawsuit costs and expenses. The maximum amount of attorneys’ fees of \$1.74 million is 30% of the \$5.8 million Settlement Fund, but in the view of Plaintiff’s counsel it is a much smaller percentage of the total value of the Settlement, which includes the \$5.8 million Settlement Fund and providing Class Members with sick leave for periods of Short-Term Military Leave over an 18-year period. Whether the Settlement is approved or not, you will not be required to directly pay any attorneys’ fees or other expenses or costs, which will be paid only from the Settlement Fund in the amount approved by the Court.

**THE SETTLEMENT IS NOT YET FINAL**

**24. Can the Settlement be terminated?**

If there is no final Court approval of the proposed Settlement in this case, or if Class Counsel or Defendant withdraws from the Settlement in accordance with the terms of the Settlement Agreement, or if the Settlement is not consummated for any other reason, the Settlement Agreement will become null and void, and the parties will resume their former positions in the lawsuit.

## GETTING MORE INFORMATION

### 25. How do I get more information?

This Notice contains only a summary of the proposed Settlement and your rights as a Class Member. Full details of the Settlement are set forth in the Settlement Agreement. The Settlement Agreement and certain other documents about the litigation are available on the Settlement Administrator's website at [www.southwestpilotsUSERRAsettlement.com](http://www.southwestpilotsUSERRAsettlement.com). You may obtain additional information regarding the matters involved in this lawsuit by reviewing the papers on file in this litigation, which may be (a) inspected, during business hours, at the Office of the Clerk of Court, United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102, or (b) accessed online for a fee by obtaining a password at [www.pacer.gov](http://www.pacer.gov).

**Please do not contact Southwest Airlines about this Settlement. It may not be able to give you additional information.**

### 26. How do I ensure that I receive any updates?

If your contact information changes after you receive this Notice, you should contact Class Counsel. You may e-mail any updates to your contact information to Class Counsel at [SWASettlement@outtengolden.com](mailto:SWASettlement@outtengolden.com).

### 27. Whom do I call about questions?

If you have any questions about this Notice, or the lawsuit, contact Class Counsel or the Settlement Administrator listed below.

<i>For Questions About the Settlement:</i>	
OUTTEN & GOLDEN LLP Peter Romer-Friedman 601 Massachusetts Avenue NW, Second Floor West Suite Washington, D.C. 20001 Telephone: (202) 847-4400 Facsimile: (202) 847-4410 Email: <a href="mailto:SWASettlement@outtengolden.com">SWASettlement@outtengolden.com</a>	Southwest Pilot USERRA Settlement Administrator
CROTTY & SON LAW FIRM, PLLC Matthew Z. Crotty, Esq. 905 W. Riverside Ave., Suite 404 Spokane, WA 99201 Telephone: (509) 850-7011 <a href="mailto:matt@crottyandson.com">matt@crottyandson.com</a>	
LAW OFFICE OF THOMAS G. JARRARD LLC Thomas G. Jarrard, Esq. 1020 N. Washington Dt. Spokane, WA 99201 Telephone: (425) 239-7290 <a href="mailto:tjarrard@att.net">tjarrard@att.net</a>	

**PLEASE DO NOT CONTACT THE COURT OR THE COURT CLERK'S OFFICE REGARDING THIS NOTICE, THE SETTLEMENT, OR THE CLAIMS PROCESS.**

Dated: January 4, 2019

BY ORDER OF THE COURT

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA