

## NOTICE OF SETTLEMENT APPROVAL

### SKYSERVICE CLASS ACTION

PLEASE READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS

#### TO ALL CLASS MEMBERS:

#### WHAT IS THIS NOTICE?

This is a Court approved notice to Class Members of the Order made by the Superior Court of Justice for Ontario dated December 22, 2010 approving the settlement of the class action in *Maggissano v. Skyservice Airlines Inc.* Court File No.: 05-CV-290727 CP. **This notice describes the Settlement Agreement reached between the parties and the method on which Class Members can make claims for bodily injuries under the Settlement Agreement.**

#### WHAT IS THE CLASS ACTION ABOUT?

On June 2, 2005, a proposed class action lawsuit was commenced in the Ontario Superior Court of Justice, Court File No.: 05-CV-290727 CP, against Skyservice Airlines Inc. ("Skyservice") on behalf of passengers of Skyservice Flight No. 5G560, which departed from Toronto en route to Punta Cana, Dominican Republic on May 22, 2005 ("Flight 560"), and their family members.

This action was certified as a Class Action on November 10, 2010 on consent for settlement purposes. The class action seeks to recover damages for injuries and economic losses following the Flight 560 hard landing accident in Punta Cana, Dominican Republic.

#### WHO IS A CLASS MEMBER?

**The following persons are members of the Class and are affected by this Notice:**

- a) All persons who were passengers on Skyservice Flight No. 560 which departed from Toronto en route to Punta Cana, Dominican Republic on May 22, 2005 ("Flight 560") ("Primary Class Members"); and
- b) Persons related to persons listed in subparagraph (a) above who are entitled to claim pursuant to section 61 of the *Family Law Act*, R.S.O. 1990, c. F-3 ("Derivative Class Members").

#### WHAT DOES THE SETTLEMENT PROVIDE?

The Proposed Settlement provides that:

- Skyservice shall pay all Class Member Bodily Injury damages and damages of Derivative Class Members arising from the landing of Flight 560;
- Skyservice shall pay any associated subrogated claims of OHIP for those Class Members with Bodily Injury claims; and
- Skyservice shall pay pre-judgment interest in accordance with the Courts of Justice Act.

This Notice is only a summary of the Settlement Agreement. Further particulars concerning the proposed settlement, including a copy of the Settlement Agreement and the Order of the Ontario Superior Court of Justice dated December 22, 2010 can be obtained from Class Counsel's website at: [www.rochongenova.com](http://www.rochongenova.com) or by writing to Rochon Genova LLP at the address noted below.

### **HOW DO I RECEIVE BENEFITS FROM THIS SETTLEMENT?**

Each Class Member who has not already negotiated a settlement with Skyservice will be entitled to submit a claim package within nine (9) months following approval of the settlement by the Court. Class Members can obtain a claims package from Class Counsel.

### **HOW DID THE RECEIVERSHIP OF SKYSERVICE AFFECT THIS SETTLEMENT?**

The receivership of Skyservice Airlines Inc. temporarily stayed our class action, however, all counsel worked together to have this stay removed in order to proceed with our class action. Since Skyservice had insurance in place at the time of the accident of May 22, 2005, all bodily injury claims are protected. However, the receivership affected the ability of counsel to negotiate for in-kind or cash consideration for claims other than Bodily Injury claims as defined in the Settlement Agreement.

### **HOW DOES THE SETTLEMENT APPROVAL AFFECT ME?**

All Class Members are hereby bound by the terms of the Settlement Agreement, unless they "opted out" by December 17, 2010. This means Class Members are not able to bring or maintain any other claim or legal proceeding against the Defendant or any other person released by the Settlement Agreement in relation to the matters alleged in these proceedings.

### **LEGAL FEES**

At the approval hearing, class counsel requested that the Court approve payment of legal fees and disbursements in the amount of \$200,000.00 following settlement approval to be paid forthwith by the Defendant and thereafter an amount representing 10% of the total damages obtained for class members at time of settlement, mediation or arbitration of the class member claim. This 10% will not be deducted from the settlement or judgment obtained for the class member but will be paid by the Defendant in addition to the damages obtained for the class member.

### **SO...WHAT DO I DO NOW?**

- **IF YOUR CLAIM IS SETTLED** – you simply await your cheque from Skyservice.
- **IF YOU HAVEN'T SETTLED WITH SKYSERVICE BUT SUFFERED A BODILY INJURY** – you will need to fill out a Claims Package and submit this Claims Package to Rochon Genova LLP by no later than September 22, 2011.

### **WHO REPRESENTS ME?**

Vincent Genova and Christina Barbato of the law firm of *Rochon Genova LLP* are Class Counsel. Class Counsel's address and contact information are set out below:

#### ***Rochon Genova LLP***

Vincent Genova/Christina Barbato  
121 Richmond Street West, Suite 900  
Toronto, ON  
M5H 2K1

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If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

**Questions about this notice should NOT be directed to the Court.**