

SCHEDULE "A" TO THE ORDER

NOTICE OF CERTIFICATION AND PROPOSED SETTLEMENT OF 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 November 10, 2010 **certifying for settlement purposes a class action in *Maggissano v. Skyservice Airlines Inc.*** Court File No.: 05-CV-290727 CP. This notice describes the nature of the class action and the proposed settlement. It describes the rights of class members with respect to the certification of the class action and with respect to the upcoming motion for court approval of the settlement.

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. 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:

- 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 November 10, 2010 can be obtained from Class Counsel's website at: 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 with ninety (90) days following the settlement approval hearing or upon receiving an Order of the Superior Court of Ontario effecting settlement. Class Members can obtain a claims package by contacting Class Counsel at the contact information below or can download the claims package from Class Counsel's website: www.rochongenova.com.

HOW DID THE RECEIVERSHIP OF SKYSERVICE AFFECT THIS PROPOSED SETTLEMENT?

The receivership of Skyservice Airlines Inc. temporarily stayed our class action, however, all counsel worked together to have this stay removed and 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.

WILL THE SETTLEMENT BE APPROVED?

A hearing for the purposes of seeking approval of the Settlement Agreement has been scheduled for **Wednesday, December 22, 2010 at 10:00 a.m.** at the Courthouse, 130 Queen Street West, Toronto, ON. At that hearing the Ontario Court will determine whether the Settlement Agreement is in the best interests of the Class Members.

WHAT IF I DO NOT AGREE TO THE SETTLEMENT AS SET OUT ABOVE?

If you are a Class Member and you wish to comment on, or make an objection to, the Settlement Agreement by written submissions, they must be delivered to Ontario Class Counsel, at the address listed below, by no later than **Friday, December 17, 2010**. Class Counsel will forward all such submissions to the Ontario Court. Class Members may also comment on or object to the settlement in person at the settlement approval hearing.

Copies of the settlement approval materials will be available for inspection by Class Members on Class Counsel's website at www.rochongenova.com. If the Settlement Agreement receives final approval from the Ontario Court, further Notices will be published on the aforementioned website, in a press release, by direct mailing and as otherwise directed by the Ontario Court.

HOW ARE MY RIGHTS AFFECTED IF THE SETTLEMENT IS APPROVED?

If the Settlement Agreement receives the approval of the Ontario Court, all Class Members will be bound by the terms of the Settlement Agreement, unless they "opt out". This means that the Class Member will not be 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. If you opt out, you will not be bound by the terms of the Settlement Agreement, but you will not be eligible for any of the benefits of the Settlement Agreement. This means that you will be barred from making a claim and receiving payment pursuant to the Settlement Agreement.

IF YOU WISH TO OPT OUT, YOU MUST DO SO BY DECEMBER 17, 2010 USING THE FORM ENCLOSED WITH THIS NOTICE.

LEGAL FEES

At the approval hearing, class counsel will collectively request that the Courts approve payment of legal fees and disbursements to Rochon Genova LLP in the amount of \$200,000 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 ARE MY OPTIONS?

- **OBJECTING** to the settlement – if you wish to appear at the approval hearing or object to this proposed settlement, you are asked to submit a written objection to Rochon Genova LLP in accordance with the procedures and deadlines described in this Notice.
- **OPTING-OUT** of the settlement – if you wish to opt-out of this proposed settlement, you must complete the opt-out form enclosed and return it to Class Counsel (contact information below) by **December 17, 2010**. If you do not submit an opt-out form at all or if you do not submit an opt-out by **December 17, 2010** then you will be bound by all of the applicable court's orders, the release and other provisions of the settlement.
- **SUPPORTING** the settlement – if you wish to support the proposed settlement, you do not need to do anything at this point. You do not need to submit any forms or attend at the hearing.
- **SUBMITTING A CLAIM FOR COMPENSATION** – if the settlement is approved, you will receive Notice from Skyservice Airlines Inc. informing you of the deadline on which to submit a Claims Package. Claims Packages can be obtained by contacting Class Counsel at the contact information below.

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

Phone: 416-363-1867
Fax: 416-363-0263
E-mail: cbarbato@rochongenova.com

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.