

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE)
JUSTICE E.M. MORGAN)
)
)

WEDNESDAY, THE 10TH
DAY OF JANUARY 2024

BETWEEN:



**JOHN SOMWAR, TULSIDAI SOMWAR and
SHANTA PERSAUD** Plaintiffs

- and -

Entered
Feb 1
2024

**FLY JAMAICA AIRWAYS LTD., THE BOEING COMPANY, ~~JOHN DOE #1 PILOT,~~
~~JOHN DOE #2 CO PILOT~~ BASIL FERGUSON, KEONE BRYAN, JOHN DOE #3
AIRCRAFT MAINTENANCE PROVIDER MEXICANA MRO, S.A. DE. C.V., JOHN
DOE #4 AIRCRAFT MAINTENANCE MECHANIC**

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**ORDER
(Settlement Approval)**

THIS MOTION made by the Plaintiffs for an Order approving the Settlement Agreement entered into with the Defendants, Fly Jamaica Airways Ltd., The Boeing Company, Basil Ferguson, Keone Bryan, Mexicana MRO, S.A. DE C.V. and John Doe #4 Aircraft Maintenance Mechanic, was heard January 10, 2024, via videoconference, at 361 University Avenue, Toronto, Ontario.

ON READING the materials filed, including the Settlement Agreement attached to this Order as Schedule "A" (the "Settlement Agreement"); and on hearing the submissions of Class Counsel:

1. **THIS COURT ORDERS AND DECLARES** that this action is certified as a class proceeding as against the Defendant Mexicana MRO, S.A. De C.V., pursuant to section 5 of the *Class Proceedings Act, 1992* for settlement purposes only.

2. **THIS COURT ORDERS AND DECLARES** that for the purpose of the settlement approval Order the definitions set out in the Settlement Agreement will apply to and are incorporated into the Order, provided always that "Released Parties" in this order shall mean all Released Parties as defined in the Settlement Agreement and "Released Party" shall mean any one of the Released Parties.

3. **THIS COURT DECLARES** that the Settlement Agreement between the Class Members and the Defendants is fair, reasonable and in the best interests of the Class Members.

4. **THIS COURT ORDERS** that the Settlement Agreement is hereby approved pursuant to Section 27.1 of the *Class Proceedings Act, 1992* and shall be implemented in accordance with its terms. Where any term of this Order and the Settlement Agreement conflict, the term contained in this Order shall govern.

5. **THIS COURT DECLARES** that the Settlement Agreement is incorporated by reference into and forms part of the Order and is binding upon the Defendants and the Class Members. Where any term of this Order and the Settlement Agreement conflict, the term contained in this Order shall govern.

6. **THIS COURT ORDERS AND DECLARES** that each Class Member is deemed to consent to the terms of the Settlement Agreement and to the dismissal of this Action, without costs and with prejudice, of his, her or its claims against the Released Parties.

7. **THIS COURT ORDERS AND DECLARES** that this Order does not affect rights, not otherwise subject to agreement or resolved, of parties in any other action arising from the accident to seek contribution and indemnity in respect of the claims made in such other action.

8. **THIS COURT ORDERS AND DECLARES** that except as provided in this Order or as may be required to enforce the Settlement Agreement, the Releasing Parties shall not now or hereafter institute, continue, maintain or assert, whether directly or indirectly, before the courts of any country, judicial body, government authority or any other entity anywhere in the world, on their own behalf or on behalf of any Releasing Party or any other person, any action, suit, cause of action, claim or demand against any Released Party or any other person who may claim contribution or indemnity from any Released Party in respect of any Released Claim or any matter related thereto.

9. **THIS COURT ORDERS AND DECLARES** that this Order, including the Settlement Agreement, is binding upon each Class Member including those persons who are minors or mentally incapable.

10. **THIS COURT ORDERS AND DECLARES** that, upon the Effective Date, the Releasing Parties are deemed to, and to hereby, release and forever discharge the Released Parties of and from any and all Claims arising from or in any way related to the Released Claims.

11. **THIS COURT ORDERS** that the Defendants shall have no responsibility or liability relating to the administration, investment, or distribution of the Settlement Amount.

12. **THIS COURT ORDERS** that the Court will retain jurisdiction over the Settlement Agreement and the Claims Process and over the Parties to the Settlement Agreement including, but not limited to, all Class Members to ensure that all payments and disbursements are properly made, and to interpret and enforce the terms, conditions, and obligations of the Settlement Agreement.

13. **THIS COURT ORDERS** that the Class Members be given notice of this Order in writing by letter, within 14 days of the date of this Order and that such notice be sent by email or regular mail to all Class Members.

14. **THIS COURT ORDERS** that notice to the Passenger Class Members shall be deemed to be notice to the Family Claimant Class Members.

15. **THIS COURT ORDERS** that any one or more of the Parties may apply to the Court for directions in respect of implementation or administration of the Settlement Agreement.

16. **THIS COURT ORDERS** that this Action be and is hereby dismissed against the Defendants without costs and with prejudice.

A handwritten signature in black ink, appearing to read "Morgan, J.", is centered on a rectangular grid background.

Morgan, J.

JOHN SOMWAR et al

Plaintiffs

-and-

FLY JAMAICA AIRWAYS LTD. et al.

Defendants

Court File No. CV-18-00609498-00CP

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PROCEEDING COMMENCED AT
TORONTO

ORDER
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