



No. VLC-S-S197550
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

KATHLEEN POULUS

PLAINTIFF

AND:

WESTJET AIRLINES LTD. and WESTJET ENCORE LTD.

DEFENDANTS

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

BEFORE } THE HONOURABLE JUSTICE FRANCIS } 11/OCT/2024

ORDER

ON THE APPLICATION of the Plaintiff coming on for hearing before the Honourable Justice Francis at the Courthouse at 800 Smithe Street, Vancouver, B.C., on October 11, 2024, on reading the materials filed, including the settlement agreement dated January 15, 2024 ("**Settlement Agreement**"), and on hearing Kevin McLaren, Alexia Majidi, Simon Lin, Jeremie Martin, and Sebastien Paquette for the Plaintiff, and Michael Dery and Nicolas Pimentel for the Defendants, and on being advised that the Plaintiff and Defendants consent to this Order:

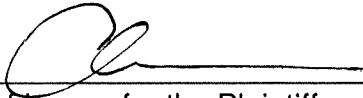
AND ON HEARING the Plaintiff's submissions and the Defendants taking no position;

THIS COURT ORDERS that:

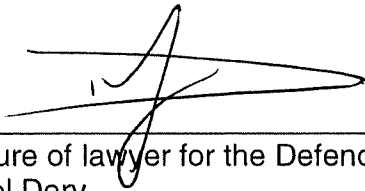
1. The retainer agreement entered into with the representative plaintiff Kathleen Poulus is approved under the section 38 of the *Class Proceedings Act*, RSBC 1996, c 50;

2. A fee of \$4,166,667.00 plus applicable taxes is approved and shall be paid to Hammerco Lawyers LLP, Mathew P. Good Law Corporation, Evolink Law Group, and Champlain Avocats (hereafter "**Class Counsel**") in accordance with the approved settlement agreement;
3. Disbursements of \$ 38,971.37 are approved and are payable to Class Counsel in accordance with the approved settlement agreement;
4. **Class Counsel's further disbursements** for completing the settlement and administering the Distribution Protocol, attached as **Schedule "A"**, shall also be paid to Class Counsel as a first charge prior to distribution to the Class Members;
5. An honourarium of \$1,500 is approved and awarded to the Plaintiff, Kathleen Poulus, payable as a first charge on the settlement funds; and
6. The legal fees, disbursements, and applicable taxes shall be paid pursuant to the terms of the Settlement Agreement.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

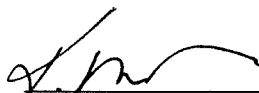


Signature of lawyer for the Plaintiff,
Kevin McLaren



Signature of lawyer for the Defendants,
Michael Dery

By the Court:



Registrar



Schedule "A"Distribution Protocol

1. The definitions in the Settlement Agreement apply to and are incorporated into this Distribution Protocol.
2. This Distribution Protocol is prepared in accordance with the Settlement Agreement.
3. Upon the expiry of the appeal periods for the settlement approval order(s) and up to ninety-days thereafter (the "**Claims Period**"), **Class Members shall submit a simplified claim** in accordance with section 9 below.
4. Class Members may not submit a claim for more than three pieces of first-checked baggage.
5. The Defendants (or a third-party administrator) will administer the Distribution Protocol in accordance with its terms, prioritizing the goals of efficiency and compensation for eligible claims. At their sole discretion, the Parties may waive technical requirements under the Distribution Protocol, if necessary, to do justice for Class Members. There will be no appeals or other reconsideration of any determinations made under the Distribution Protocol. The Parties will not be liable for any decisions or actions taken under the Distribution Protocol.
6. The Defendants will be entitled to deduct from the Settlement Amount any third-party cost of administering notices and/or the claims, but not for their internal costs.
7. Within 60-days after the Claims Period, for approved claims, the Defendants will **distribute to the Class Members' WestJet Travel Bank account a *pro-rata* share** from the remaining Settlement Amount, redeemable towards a WestJet flight without blackout periods. The standard terms for WestJet Travel Credits, as of December 1, 2023, will apply except transferability, and will have a 24-month expiry (subject to confirmation from WestJet) and can be used to book for another guest.
 - a. Distribution to class members that are before July 6, 2017 would be at a weighing of 40% as compared to class members that are on or after July 6, 2017, with a maximum of \$18CAD for each first-checked baggage fee paid during the class period;
 - b. Distribution to class members that are on or after July 6, 2017 will be a maximum of \$45CAD for each first-checked baggage fee paid during the class period;
 - c. The first baggage fee will be approved first. If there are remaining amounts

thereafter, then the second baggage fee will be approved. If there are remaining amounts after the second baggage fee claims, then the third baggage fee will be approved. Claims will be processed in reverse date order, starting from the most recent trip. If amounts still remain, they will be donated in accordance with paragraph 15 below.

(collectively, the “**Settlement Benefits**”)

8. Class Members who submit a timely claim will be eligible for a share of the Settlement Benefits, as calculated in accordance with section 7 above.
9. Every Class Member that wishes to receive their share of the Settlement Benefits must submit a simplified claim form as follows:
 - a. For Class Members with an active WestJet Travel Bank account that can be identified to an e-mail address that WestJet has on file, those Class Members must submit a pre-filled claim form that the Defendant sends via email.
 - b. For any other Class Members, they must submit an electronic or paper claim form consisting of:
 - i. Full Name
 - ii. Contact Information
 - iii. WestJet Travel Bank or Rewards Account Number;
 - iv. The number of claims they are making, and the associated Proof of Class Membership
 - v. Proof of Class Membership, consisting of a copy of the booking confirmation and proof of payment of the first checked baggage fees
10. Class Members that do not submit a claim in accordance with this Distribution Protocol will not receive any Settlement Benefits.
11. Each claim form is for a specific Class Member only, and Class Members may submit a claim on their own behalf only.
12. Claims can be submitted by email to wibaggagefeesca@hammerco.ca. Class Members can alternatively provide their claim in paper form and mail it to: Hammerco Lawyers LLP at 400-2233 Columbia Street, Vancouver, BC V5Y 0M6.
13. The Defendants will administer all claims received by the date that is one year after the date of the Order approving this Distribution Protocol. If the available Settlement Amount is insufficient to pay all approved substantiated claims at this time, each claim

will be proportionally reduced (the "Distribution").

14. The remaining Settlement Amount, after Distribution, is not a settlement fund as contemplated in ss. 35 and 36.2 of the *Class Proceedings Act*.
15. Following the Distribution, the Defendants will disburse the remaining Settlement Amount, in the form of WestJet Travel Bank credits valid for 24 months, equally to non-profit organizations selected by the Defendants and approved by the Court. Further restrictions may be applied on the donated credits, subject to Court approval. The Defendants may claim the tax benefit of the donations, if any.
16. Following the Distribution and any *cy-pres* donation in Section 15, the Defendants shall provide all necessary information to enable Class Counsel to send a reporting letter to the Case Management Judge setting out the claims made, amounts paid out, and any other matters relevant to the Distribution Protocol process.