

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE

AIR CARGO SHIPPING SERVICES
ANTITRUST LITIGATION

MDL No. 1775

Master File 06-MD-1775 (JG)
(VVP)

THIS DOCUMENT RELATES
TO: All Actions

**ORDER AUTHORIZING DISSEMINATION OF CLASS
NOTICE AND CLAIM FORM AND SCHEDULING A HEARING FOR
FINAL APPROVAL OF PROPOSED SETTLEMENTS**

THIS CAUSE came before the Court on Plaintiffs' Motion to Authorize Dissemination of Class Notice and to Schedule a Fairness Hearing for Final Approval of Proposed Settlements, filed September 4, 2015.

On October 17, 2014, this Court entered an order granting preliminary approval to plaintiffs' settlement with Asiana Airlines, Inc. (the "Asiana Settlement") [Order, ECF No. 2056]. On December 24, 2014, this Court entered an order granting preliminary approval to plaintiffs' settlement with Nippon Cargo Airlines Co., Ltd. (the "Nippon Cargo Settlement") [Order, ECF No. 2098]. On May 5, 2015, this Court granted preliminary approval to plaintiffs' settlement with EVA Airways Corporation (the "EVA Settlement") [Order, ECF No. 2183].

Additionally, on July 10, 2015, this Court entered an order certifying a class of all persons or entities (but excluding defendants, their parents, predecessors, successors, subsidiaries, affiliates, as well as government entities) who purchased airfreight shipping services for shipments to or from the United States directly from any of the defendants or from

any of their parents, predecessors, successors, subsidiaries, or affiliates, at any time during the period from January 1, 2000 up to and including September 30, 2006 (the “Litigation Class”) and appointing plaintiffs’ interim co-lead counsel as Class Counsel.

The Court, having reviewed the Motion and its accompanying memorandum, and the file, hereby:

ORDERS:

Notice to Potential Settlement and Litigation Class Members

1. Within fifteen (15) days after the date of the entry of this Order, Class Counsel shall cause copies of a Notice of Proposed Class Action Settlement and Certification of Litigation Class, substantially in the form attached as Exhibit 1, to begin to be mailed by first class mail, postage prepaid, to each potential Settlement Class member whose address has been obtained from any present or former defendant or from the International Air Transport Association (“the Notice Date”).

2. As soon as practicable after the Notice Date, Class Counsel shall cause to be published a Publication Notice, substantially in the form attached as Exhibit 2. The Publication Notice shall be published one time in each of the following publications: *Air Cargo Week*; *Cargo News Asia*; *International Transport Journal*; *American Shipper*; *Airport Press*; *American Journal of Transportation*; *Inbound Logistics*; *Logistics Management*; *Air Transport World*; *Wall Street Journal* (global edition). If, in the good-faith judgment of Class Counsel, timely publication in one or more of the listed publications is deemed impracticable after the issuance of this Order, appropriate changes may be made in consultation with plaintiffs’ legal notice advisor, Jeanne C. Finegan, APR, and the approved Claims Administrator, Garden City Group.

3. On or before the Notice Date, Settlement Class Counsel shall cause the Notice to be published on the following website: www.Aircargosettlement5.com.

4. Prior to the Fairness Hearing (as described below), Class Counsel shall serve and file a sworn statement attesting to compliance with the provisions of paragraphs 1 through 3 of this Order.

5. As described in the Notice of Proposed Class Action Settlement and Certification of Litigation Class, any Settlement Class Member may request exclusion from the Asiana Settlement Class, the Nippon Cargo Settlement Class, or the EVA Settlement Class by notifying the Claims Administrator at the address provided. A Settlement Class Member wishing to request exclusion shall mail a request in written form by first-class mail, postmarked no later than sixty (60) days after the Notice Date to the address of the Claims Administrator designated in the Notice. The exclusion request must clearly state: (a) the Settlement Class Member's name, address, and telephone number; (b) all trade names or business names and addresses that the Settlement Class Member has used at any time during the dates January 1, 2000 to September 11, 2006 who are also requesting exclusion; (c) the name of the Action ("*In re Air Cargo Shipping Services Antitrust Litigation*"); and (d) a signed statement that the Settlement Class Member requests to be excluded from the Asiana Settlement Class, the Nippon Cargo Settlement Class, or the EVA Settlement Class. The request for exclusion shall not be effective unless it provides the required information and is made within the time stated above. Persons or entities that request exclusion from a Settlement Class shall not be entitled to share in the benefits of the Settlement Agreement with respect to that settlement, nor shall they be bound by any judgment, whether favorable or adverse, entered in connection with such settlements.

6. As described in the Notice of Proposed Class Action Settlement and Certification of Litigation Class, any Litigation Class Member may request exclusion from the Litigation Class by notifying the Claims Administrator at the address provided. A Litigation Class Member wishing to request exclusion shall mail a request in written form by first-class mail, postmarked no later than sixty (60) days after the Notice Date to the address of the Claims Administrator designated in the Notice. The exclusion request must clearly state: (a) the Litigation Class Member's name, address, and telephone number; (b) all trade names or business names and addresses that the Litigation Class Member has used at any time during the dates January 1, 2000 to September 30, 2006 who are also requesting exclusion; (c) the name of the Action ("*In re Air Cargo Shipping Services Antitrust Litigation*"); and (d) a signed statement that the Litigation Class Member requests to be excluded from the Litigation Class. The request for exclusion shall not be effective unless it provides the required information and is made within the time stated above. Persons or entities that request exclusion from the Litigation Class shall not be entitled to share in the benefits of future distributions if plaintiffs obtain any money as a result of trial or from any future settlements with the non-settling defendants, nor shall they be bound by any judgment, whether favorable or adverse, entered in connection with the Litigation Class.

The Fairness Hearing

7. A Fairness Hearing is hereby scheduled to be held on March 24, 2016 at 10:00 AM before the undersigned in Courtroom 6C South at 225 Cadman Plaza East, Brooklyn, New York, to consider the fairness, reasonableness and adequacy of the Asiana Settlement, the Nippon Cargo Settlement, and the EVA Settlement.

8. All papers in support of final approval of the Asiana Settlement, the Nippon Cargo Settlement, and the EVA Settlement shall be filed forty-five (45) days before the Fairness Hearing.

9. Any member of the Settlement Class that has not requested exclusion from the Asiana Settlement Class, the Nippon Cargo Settlement Class, or the EVA Settlement Class in the manner set forth above may object to the fairness, reasonableness, and adequacy of any or all of the Settlement Agreements from which it has not requested exclusion, provided, however, that any person who wishes to object must, twenty (20) days or more before the Fairness Hearing: (a) file with the Clerk of the Court a signed statement that indicates such person's objection, and its basis, with regard to any Settlement with respect to which that person wishes to object and includes proof of membership in the Settlement Class; and (b) serve copies of such statement, as well as any other papers or briefs that such person files with the Court, either in person or by mail, upon Class Counsel and counsel for the relevant settling defendant.

10. In addition, any member of the Settlement Class that has not requested exclusion from the Asiana Settlement Class, the Nippon Cargo Settlement Class, or the EVA Settlement Class in the manner set forth above may appear at the Fairness Hearing and be heard as to the fairness, reasonableness, and adequacy of any or all of the Settlement Agreements from which it has not requested exclusion, provided, however, that any person who wishes to be heard is encouraged, twenty (20) days or more before the Fairness Hearing, to: (a) file with the Clerk of the Court a signed statement that indicates such person's position, and its basis, with regard to any Settlement with respect to which that person wishes to be heard, and includes proof of membership in the Settlement Class; and (b) serve copies of such statement, as well as any other

papers or briefs that such person files with the Court, either in person or by mail, upon Class Counsel and counsel for the relevant settling defendant.

11. The date of the Fairness Hearing shall be set forth in the Notice and Publication Notice, but shall be subject to adjournment by the Court without further notice to the members of the Settlement Class other than that which may be posted at the Court and on the Court's website.

12. If any provision of this Order conflicts with a provision of any of the Preliminary Approval Orders, the provisions of this Order shall govern.

So ordered.

John Gleeson, U.S.D.J.

Dated: November 6, 2015
Brooklyn, New York