

Court File No.: T-1147-15

FEDERAL COURT

B E T W E E N :

RICHARD MAYNARD

Plaintiff

- and -

AIR CANADA, DELTA AIR LINES, INC., AMERICAN AIRLINES INC.,
UNITED AIRLINES INC. AND SOUTHWEST AIRLINES CO.

Defendants

- AND -

Court File No.: 2120/15

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

JENNIFER GIFFORD

Plaintiff

- and -

AIR CANADA, AIR CANADA ROUGE GENERAL PARTNER INC., CHORUS AVIATION
INC., JAZZ AIR INC., DELTA AIR LINES, INC., AMERICAN AIRLINES, INC.,
UNITED AIRLINES, INC., and SOUTHWEST AIRLINES CO.

Defendants

Brought under the *Class Proceedings Act*, 1992, S.O. 1992, c.6

- AND -

CANADA

PROVINCE DE QUÉBEC
DISTRICT DE MONTRÉAL

COUR SUPÉRIEURE
(recours collectif)

No.: C.S.: 500-06-000763-157

OPTION CONSOMMATEURS

Requérante

-et-

JOHANNE LABRECQUE

Personne désignée

c.

AMERICAN AIRLINES, INC. et al.

- AND -

Court File No.: S = 155798

In the Supreme Court of British Columbia

BETWEEN:

JACOB G. SORENSEN

Plaintiff

- and -

AIR CANADA, AIR CANADA ROUGE GENERAL PARTNER INC.,
CHORUS AVIATION INC., JAZZ AIR INC., DELTA AIR LINES, INC.,
AMERICAN AIRLINES, INC., UNITED AIRLINES, INC., and
SOUTHWEST AIRLINES CO.

Defendants

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

MINUTES OF SETTLEMENT

WHEREAS Harrison Pensa LLP, Camp Fiorante Matthews Mogerman, Branch MacMaster LLP, and Belleau Lapointe s.e.n.c.r.l. (collectively, the “Consortium” and each individually a “Firm”) have commenced the following proceedings: *Maynard v. Air Canada et al*, Federal Court File No. T-1147-15 (the “Federal Court Action”); *Sorensen v. Air Canada et al*, Vancouver Court File No. S-155798 (the “B.C. Action”); *Gifford v. Air Canada et al*, London Court File No. 2120/15 (the “Ontario Action”); and *Option Consommateurs c. American Airlines, Inc. et al*, Montreal Court File No. 500-06-000763-157 (the “Québec Action”), against Air Canada, Air Canada Rouge General Partner Inc., Chorus Aviation Inc., Jazz Air Inc., American Airlines, Inc., Delta Air Lines, Inc. Southwest Airlines Co., and United Airlines, Inc. (collectively, but excluding Southwest, the “Defendants”);

AND WHEREAS the Merchant Law Group has commenced a proceeding in the Court of Queen’s Bench for Saskatchewan, Regina Court File No. 1764 of 15 (the “Saskatchewan Action”, and together with the Federal Court Action, the B.C. Action, the Ontario Action, and the Québec Action, collectively the “Actions” or individually an “Action”);

AND WHEREAS the Defendants have indicated their intention to bring motions to strike the Federal Court Action as an abuse of process, and to strike the common law claims asserted in the Federal Court Action for want of subject matter jurisdiction and failure to state a cause of action;

AND WHEREAS the various Actions arise out of the same alleged facts, and assert the same or analogous causes of action in their respective jurisdictions;

AND WHEREAS the Consortium, their respective clients, and the Defendants agree that it would be preferable for the matters raised in the Actions to be litigated in one Action;

AND WHEREAS Southwest Airlines Co. has entered into a separate agreement with the Consortium and its clients with respect to the discontinuance of all of the Consortium's claims as against Southwest;

NOW THEREFORE the undersigned parties to these Minutes of Settlement hereby agree as follows:

1. The Consortium or its appropriate member Firm(s) will bring motions to stay each of the B.C. Action, the Québec Action and the Federal Court Action on a without costs basis, and on terms agreeable to the Consortium and the Defendants, such consent not to be unreasonably withheld.
2. The stays of proceedings referred to in paragraph 1 may be lifted only on the express, written consent of all of the Defendants.
3. To the extent that any court does not grant the stays of proceedings referred to in paragraph 1 in respect of an Action, the parties agree that these Minutes of Settlement will be null and void and to negotiate in good faith a new settlement governed by the same objective of having the matters raised in the Actions litigated in one Action.

4. The Defendants agree that the Ontario Action may proceed to a motion for certification, and that the schedule for certification will be as close to the currently established Federal Court schedule as reasonably possible. The Consortium and their respective clients agree that the Defendants have not waived any potential defences to certification by entering into these Minutes of Settlement.

5. The Defendants agree that the Ontario Action shall be conducted on a “no costs” basis in respect of all matters, including all motions, pre-trial procedures, trials or appeals. No party shall seek costs from another party in respect of the Ontario Action.

6. The parties agree that all case conferences and motions in the Ontario Action prior to class certification shall take place by teleconference or videoconference, except as otherwise agreed among counsel or as directed by the court.

7. If the Ontario Action is certified as a class proceeding, the Defendants may, at their option, bring a motion to transfer the Ontario Action to the Commercial List in Toronto, and the Consortium and its respective clients shall consent to and affirmatively support such motion.

8. The parties agree not to re-litigate any issue decided by the Ontario Action, unless the court in another jurisdiction declares that such further litigation is required to make the Ontario finding on the issue effective within that jurisdiction. The spirit and purpose of this agreement is to avoid re-litigation and the parties agree to abide by that spirit and purpose in good faith.

9. While the Defendants retain the right to oppose certification of the Ontario Action, the Defendants will not oppose certification on the grounds that (1) Ontario is an improper or inappropriate forum, or that (2) the Ontario Court does not have jurisdiction to certify a national opt out class.

10. The Defendants agree to bring a motion for a permanent stay of the Saskatchewan Action, and the Consortium and its respective clients will provide support for such motion as is reasonable in the circumstances.

11. For the sake of greater certainty, each party to these Minutes of Settlement agrees to be bound by the results of the Ontario Action in respect of all procedural or substantive matters determined in that Action. No member of the Consortium nor any of their respective clients will pursue class certification or authorization in any of the Actions other than the Ontario Action, except with the express, written consent of the Defendants, such as for purposes of settlement.

12. The parties consent to the provision of these Minutes of Settlement to the Federal Court, BC Court, Ontario Court, Saskatchewan Court or Quebec Court as necessary to enforce its terms.

13. All parties represent that they have obtained or had access to legal advice concerning these Minutes of Settlement, that they have reviewed and understand these Minutes of Settlement, that they are voluntarily entering into these Minutes of Settlement, and that they will not engage in any action which would conflict with the provisions of the Minutes of Settlement either in word or in spirit.

14. These Minutes of Settlement shall be binding upon, and enure to the benefit of, the parties hereto and their respective heirs, executors, administrators, personal representatives as well as any affiliated or related companies and any successors, officers, directors, officers, employees, agents, servants and assigns of each of the parties and of any such affiliated or related companies.

15. These Minutes of Settlement constitute the entire agreement between the parties with respect to the subject matter hereof and supersede all prior agreements, understandings, negotiations and discussions, whether written or oral. There are no conditions, covenants, agreements, representations, warranties or other provisions, express or implied, collateral, statutory or otherwise, relating to the subject matter hereof except as provided herein.

16. These Minutes of Settlement shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein.

17. These Minutes of Settlement may be executed in counterparts and exchanged by facsimile transmission or email (pdf), each copy of which shall be deemed to be an original, and such separate counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF the undersigned have executed these Minutes of Settlement personally or by their proper signing officers who have been duly authorized to do so.

Dated: ^{May 16} February ____, 2016

Option Consommateurs

By: Sylvie De Bellefeuille
Name: Sylvie De Bellefeuille
Title: Legal Adviser

Dated: February ____, 2016

Richard Maynard

Dated: February ____, 2016

Jacob G. Sorensen

Dated: February ____, 2016

Jennifer Gifford

Dated: ^{May 13} February ____, 2016

Belleau Lapointe s.e.n.c.r.l.
Belleau Lapointe s.e.n.c.r.l.

Lawyers for the Plaintiff
Option Consommateurs

Dated: February ____, 2016

Branch MacMaster LLP

Lawyers for the Plaintiff Richard Maynard

Dated: February ____, 2016

Camp Fiorante Matthews Mogerman

Lawyers for the Plaintiff Jacob G. Sorensen

Dated: February ____, 2016

Option Consommateurs

By: _____

Name:

Title:



Richard Maynard

Dated: February ____, 2016

Dated: February ____, 2016

Jacob G. Sorensen

Dated: February ____, 2016

Jennifer Gifford

Dated: February ____, 2016

Belleau Lapointe s.e.n.c.r.l.

Lawyers for the Plaintiff
Option Consommateurs

Dated: February ____, 2016



Branch MacMaster LLP

Lawyers for the Plaintiff Richard Maynard

Dated: February ____, 2016

Camp Fiorante Matthews Mogerman

Lawyers for the Plaintiff Jacob G. Sorensen

Dated: February ____, 2016

Option Consommateurs

By:


Name:

Title:

Dated: February ____, 2016

Richard Maynard

Dated: ^{May} February 18, 2016



Jacob G. Sorensen

Dated: February ____, 2016

Jennifer Gifford

Dated: February ____, 2016

Belleau Lapointe s.e.n.c.r.l.

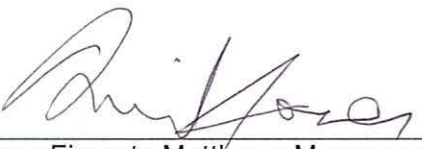
Lawyers for the Plaintiff
Option Consommateurs

Dated: February ____, 2016

Branch MacMaster LLP

Lawyers for the Plaintiff Richard Maynard

Dated: ^{May} February 18, 2016



Camp Fiorante Matthews Mogerman
Lawyers for the Plaintiff Jacob G. Sorensen

Dated: February ____, 2016

Option Consommateurs

By: _____

Name:

Title:

Dated: February ____, 2016

Richard Maynard

Dated: February ____, 2016

Jacob G. Sorensen

Dated: February ____, 2016



Jennifer Gifford

Dated: February ____, 2016

Belleau Lapointe s.e.n.c.r.l.

Lawyers for the Plaintiff
Option Consommateurs

Dated: February ____, 2016

Branch MacMaster LLP

Lawyers for the Plaintiff Richard Maynard

Dated: February ____, 2016

Camp Fiorante Matthews Mogerman

Lawyers for the Plaintiff Jacob G. Sorensen

Dated: February ____, 2016



Harrison Pensa LLP
Lawyers for the Plaintiff Jennifer Gifford

Dated: February ____, 2016

Delta Air Lines, Inc.

By: _____
Name:
Title:

Dated: February ____, 2016

United Airlines, Inc.

By: _____
Name:
Title:

Dated: February ____, 2016

Air Canada, Air Canada Rouge General Partner Inc., Chorus Aviation Inc., Jazz Air Inc.

By: _____
Name:
Title:


Dated: February _____, 2016

Harrison Pensa LLP

Lawyers for the Plaintiff Jennifer Gifford

Dated: ^{April} ~~February~~ ²⁶ _____, 2016

Delta Air Lines, Inc.

By: 

Name: J. Scott McClain
Title: Associate General Counsel

Dated: February _____, 2016

United Airlines, Inc.

By: _____
Name:
Title:

Dated: February _____, 2016

Air Canada, Air Canada Rouge General
Partner Inc., Chorus Aviation Inc., Jazz Air
Inc.

By: _____
Name:
Title:

Dated: February ____, 2016

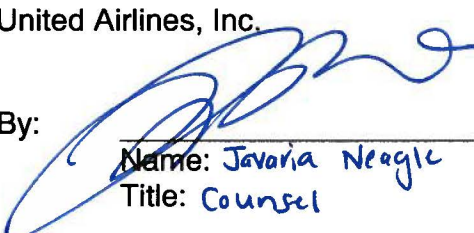
Harrison Pensa LLP
Lawyers for the Plaintiff Jennifer Gifford

Dated: February ____, 2016

Delta Air Lines, Inc.

By: _____
Name:
Title:

Dated: ^{May} February 3, 2016

United Airlines, Inc.
By:  _____
Name: Javaria Neagle
Title: Counsel

Dated: February ____, 2016

Air Canada, Air Canada Rouge General
Partner Inc., Chorus Aviation Inc., Jazz Air
Inc.

By: _____
Name:
Title:

Dated: February _____, 2016

Harrison Pensa LLP

Lawyers for the Plaintiff Jennifer Gifford

Dated: February _____, 2016

Delta Air Lines, Inc.

By: _____

Name:

Title:

Dated: February _____, 2016

United Airlines, Inc.


By: _____

Name:

Title:

Dated: ^{April} February 29, 2016

Air Canada, Air Canada Rouge General Partner Inc., Chorus Aviation Inc., Jazz Air Inc.

By:  _____

Name: LOUISE-HELENE SENEGAL

Title: ASSISTANT GENERAL COUNSEL

Dated: February ____, 2016

American Airlines, Inc.

By:


Name: ROBERT B. LOHR
Title: VP & DEPUTY GENERAL COUNSEL

Dated: February ____, 2016

Davies Ward Phillips & Vineberg LLP

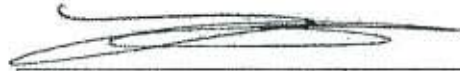
Lawyers for the Defendant Delta Air Lines, Inc.

Dated: February ____, 2016

Gowling Lafleur Henderson LLP

Counsel for the Defendant, United Airlines, Inc.

Dated: ^{May} February 3, 2016



Torys LLP

Counsel for the Defendant, Air Canada

Dated: ^{MAY} February 4, 2016



Bennett Jones LLP

Counsel for the Defendant, American Airlines, Inc.

Dated: February ____, 2016

American Airlines, Inc.

By: _____

Name:

Title:

Dated: ^{May} ~~February~~ 3, 2016



Davies Ward Phillips & Vineberg LLP

Lawyers for the Defendant Delta Air Lines,
Inc.

Dated: February ____, 2016

Gowling Lafleur Henderson LLP

Counsel for the Defendant, United Airlines,
Inc.

Dated: February ____, 2016

Torys LLP

Counsel for the Defendant, Air Canada

Dated: February ____, 2016

Bennett Jones LLP

Counsel for the Defendant, American
Airlines, Inc.

Dated: February ____, 2016

American Airlines, Inc.

By: _____

Name:

Title:

Dated: February ____, 2016

Davies Ward Phillips & Vineberg LLP

Lawyers for the Defendant Delta Air Lines,
Inc.

Dated: *May 3rd* ____, 2016

Gowling WLG (Canada) LLP

Gowling WLG (Canada) LLP
Counsel for the Defendant, United Airlines,
Inc.

Dated: February ____, 2016

Torys LLP

Counsel for the Defendant, Air Canada

Dated: February ____, 2016

Bennett Jones LLP

Counsel for the Defendant, American
Airlines, Inc.

Dated: February ____, 2016

American Airlines, Inc.

By: _____

Name:

Title:

Dated: February ____, 2016

Davies Ward Phillips & Vineberg LLP

Lawyers for the Defendant Delta Air Lines,
Inc.

Dated: February ____, 2016

Gowling Lafleur Henderson LLP

Counsel for the Defendant, United Airlines,
Inc.

Dated: ^{May} ~~February~~ 3, 2016



Torys LLP

Counsel for the Defendant, Air Canada

Dated: February ____, 2016

Bennett Jones LLP

Counsel for the Defendant, American
Airlines, Inc.