

NOTICE OF CERTIFICATION AND SETTLEMENT APPROVAL HEARING 407 ETR VEHICLE PERMIT RENEWAL DENIAL AND BANKRUPTCY

Read this notice carefully as it may affect your legal rights.

PURPOSE OF THIS NOTICE

A proposed class action was commenced against 407 ETR Concession Company Limited ("407 ETR") and 407 International Inc. in which it is alleged that 407 ETR's use of its vehicle permit denial remedy, (pursuant to section 22(4) of the provincial *Highway 407 Act*) in relation to amounts owing to it which were subject to a stay of proceedings or were released by operation of the federal *Bankruptcy and Insolvency Act* ("BIA") was contrary to the BIA.

The action has been settled with the defendants, subject to Court approval. A hearing to certify the action as a class proceeding for purposes of settlement and to approve the settlement will take place on **NOVEMBER 15, 2016**, at 2:00 p.m. at Osgoode Hall, 130 Queen Street West, Toronto, Ontario.

THE SETTLEMENT

The defendants have agreed, in exchange for a full release of all claims made against them in the action, to collectively pay \$7,965,800.00 into a settlement fund. In addition, the defendants have agreed to undertake changes in their business practices, including releasing applicable amounts from the vehicle permit denial process on assignment in bankruptcy.

The defendants do not admit liability. The settlement reflects a compromise of disputed claims.

The settlement fund of \$7,965,800.00 will be distributed to eligible Class Members pursuant to certain criteria, after deduction of costs of claims administration, Class Counsel fees, disbursements, taxes and costs of notice. The amount available per eligible Class Member will be dependent upon the criteria and the number of eligible Class Members who submit and prove their claim.

A request will be made for approval of Class Counsel's fees in the approximate amount of \$2,500,000.00, disbursements of approximately \$100,000.00, and applicable H.S.T. of approximately \$338,000.00 for a total of approximately \$2,938,000.00.

A request will be made for approval of Class Counsel's fees for administering the settlement which Class Counsel will undertake to do as efficiently as possible. The request for administration costs will be capped at \$500,000.00, plus H.S.T. of \$65,000.00, for a total of \$565,000.00.

The proposed definition for Class Members is as follows:

"all persons who incurred tolls and/or additional charges to 407 ETR, who subsequently filed an assignment in bankruptcy and/or a proposal or consumer proposal under the BIA, and who were subject to exercise of the Vehicle Permit renewal denial remedy by 407 ETR for those tolls and/or additional charges through the delivery of notices pursuant to section 22(4) of the Highway 407 Act."

THE CERTIFICATION AND SETTLEMENT APPROVAL HEARING

A hearing to approve the settlement will be held by the Ontario Superior Court of Justice in Toronto on **NOVEMBER 15, 2016**, at 2:00 p.m.

Class Members are permitted to appear and make submissions at the hearing with respect to the settlement or to make submissions in writing. If you wish to comment on the settlement, a written submission must be delivered to Class Counsel by email, fax, or regular mail as listed below, by **NOVEMBER 8, 2016**. Class Counsel will put all such submissions before the Court. If the settlement is approved, a further notice will be published to advise of the Court approval.

Class Members who do not oppose the proposed settlement need not appear at the hearing or take any other action to indicate desire to participate in the settlement. The process for Class Members to make a claim for settlement benefits will be explained in a future notice.

At the settlement approval hearing, the plaintiffs will ask the Court to approve terms whereby Class Members will be bound by the terms of the settlement, if approved, unless they "opt-out". The deadline and procedure for opting-out and the effect of doing so will be reviewed at the hearing and those details will be available in a further notice to be published in the event that the settlement agreement is approved by the Court.

The settlement agreement will not become effective unless approved by the Ontario Superior Court of Justice.

CLASS COUNSEL

Scarfone Hawkins ^{LLP} represents the Class Members. Class Counsel can be reached at:

By Email: 407@shlaw.ca

By Fax: 905-523-5878

By Telephone: 905-526-4394

By Mail: Scarfone Hawkins ^{LLP}

Lawyers and Trade-mark Agents

One James Street South, 14th Floor

Hamilton, Ontario L8N 3P9

www.classactionlaw.ca

If you would like a copy of the settlement agreement or have questions, please visit Class Counsel's website at www.classactionlaw.ca. This Notice contains only a summary of the settlement and Class Members are entitled to review the full settlement agreement.

Questions about this action or this Notice should be directed to Class Counsel and not to the Court.

**THIS NOTICE HAS BEEN APPROVED BY THE ONTARIO SUPERIOR COURT OF JUSTICE.
QUESTIONS ABOUT THIS NOTICE SHOULD NOT BE DIRECTED TO THE COURT.**