

# CLAIMS DEADLINE EXTENDED TO MAY 15, 2017

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

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

### PURPOSE OF THIS NOTICE

A Court proceeding was commenced as a proposed class proceeding (the "Action") and has been settled with the Defendants with the approval of the Court (the "Settlement"). The hearing to certify the Action as a class proceeding for purposes of settlement and to approve the Settlement took place on **NOVEMBER 15, 2016** at the Ontario Superior Court of Justice in Toronto.

The 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 SETTLEMENT

The Defendants have agreed, in exchange for a full release of all claims made or which could have been 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 (those Class Members who are natural persons and who included a Pre-Insolvency Debt owing to 407 ETR on their Statements of Affairs) pursuant to certain criteria, after deduction of costs of claims administration, Class Counsel fees, disbursements, taxes, costs of notice and Representative Plaintiff Compensation. 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.

Class Members other than Eligible Class Members will not be entitled to a monetary payment.

The Court has approved 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.

The Court has approved that Class Counsel administer the settlement as efficiently as possible and fixed Administration Fees, disbursements and applicable taxes at \$565,000.00.

The Court has approved Representative Plaintiff Compensation of \$30,000.00.

Accordingly, Eligible Class Members will share in a pro rata distribution of the Net Settlement Fund in the amount of \$4,432,800.00.

The Class definition as certified is as follows:

*"all Persons who, prior to the Court Approval Date, incurred tolls and/or additional charges to 407 ETR, who subsequently became Insolvent, and who were subject to exercise of the Plate 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."*

Capitalized terms have been defined in the Settlement Agreement, which can be reviewed as set out below.

### OPT-OUT OF CLASS ACTION

Class Members who do not wish to participate in the Action, or to receive a Monetary Settlement Benefit under the Settlement Agreement, or to be subject to the terms of Settlement and Final Order, may choose to opt-out of the Action, by completing and submitting an Opt-Out Form before the Opt-Out Period Deadline on **MARCH 6, 2017**.

Class Members who do not opt-out of the Action will be subject to all terms of Settlement and the Final Order.

### DISTRIBUTION OF SETTLEMENT BENEFITS

**Eligible Class Members who wish to receive a Monetary Settlement Benefit must complete and submit a Monetary Settlement Benefit Notice and Claim Form before the Extended Monetary Settlement Benefit Claims Deadline on May 15, 2017.**

### CLASS COUNSEL

Scarfone Hawkins <sup>LLP</sup> represents the Class Members. Class Counsel can be reached at:

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By Fax: 905-523-5878

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Lawyers and Trade-mark Agents  
One James Street South, 14<sup>th</sup> Floor  
Hamilton, Ontario L8P 4R5  
[www.classactionlaw.ca](http://www.classactionlaw.ca)

If you would like a copy of the Settlement Agreement, Opt-Out Form or Monetary Settlement Benefit Notice and Claim Form or have questions, please visit Class Counsel's website at [www.classactionlaw.ca](http://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.

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