

NOTICE OF CERTIFICATION AND SETTLEMENT APPROVAL HEARING

MONTAQUE v. HANDA TRAVEL STUDENT TRIP LTD., et al.

Court File No.: CV-18-00598257-CP

THIS NOTICE MAY AFFECT YOUR RIGHTS.
PLEASE READ IT CAREFULLY.

TO: All persons who worked as Trip Leaders for the Defendants on trips under their Breakaway Tours and/or S-Trip brands commencing in or departing from Ontario at any time during the period from June 3, 2014 to the date of certification, being October 23, 2020; (the “Class” and “Class Members”)

PURPOSE OF THIS NOTICE

On May 22, 2018, a class action lawsuit was commenced in the Ontario Superior Court of Justice by D’Andra Montaque (“Montaque” and/or the “Plaintiff”) against Handa Travel Student Trip Ltd. o/a I Love Travel, Campus Vacations Holdings Inc., 2504027 Ontario Inc. o/a S-Trip! and 2417988 Ontario Inc. o/a Breakaway Tours, Alexandre Jit Handa a.k.a. Alexandre Handa a.k.a. Alexander Handa a.k.a. Alex Handa, Justin Van Camp and Eugene Winer (“S-Trip” and/or the “Defendants”).

The lawsuit alleges, among other things, that S-Trip violated the *Employment Standards Act, 2000* (the “*ESA*”) and its contracts of employment with the Trip Leaders by misclassifying Trip Leaders as “volunteers” and failing to pay them wages, overtime, vacation pay and public holiday pay in accordance with the *ESA*.

The Action was certified as a class action on October 23, 2020.

Following a mediation in May 2021, Montaque and the Defendants reached an agreement to settle the Action (the “Proposed Settlement”), subject to approval of the Ontario Superior Court of Justice (the “Court”).

This Notice describes the Proposed Settlement in greater detail, including who it applies to, the details of the Proposed Settlement, and the process by which Class Members will be compensated.

The Proposed Settlement must be approved by the Court before it is finalized. As a Class Member, you have a right to take part in the approval hearing if you wish. The process for taking part in the approval hearing is set out below.

WHO DOES THE SETTLEMENT APPLY TO?

All persons who worked as Trip Leaders for the Defendants on trips under their Breakaway Tours and/or S-Trip brands commencing in or departing from Ontario at any time during the period from June 3, 2014 to the date of certification, being October 23, 2020.

MOTION FOR APPROVAL OF PROPOSED SETTLEMENT

The motion to approve the Proposed Settlement will be heard on **June 27, 2022 at 10:00 a.m.** If the hearing is held by remote technology, instructions for viewing the hearing remotely will be posted on the class action settlement website and the website of Class Counsel (goldblattpartners.com).

At the hearing of the motion, the Court will determine whether the terms of the Proposed Settlement are fair and reasonable and in the best interests of the Class. Montaque and the Defendants believe that the Proposed Settlement is fair, reasonable and in the best interests of the Class. If the Court is satisfied with the fairness of the Proposed Settlement, it will be approved.

Class Members and the public may attend the approval hearing, but are not required to do so. Class Members are entitled, but not obligated, to express their opinions about the Proposed Settlement and whether or not it should be approved at the approval hearing. If Class Members wish to make a written submission to the Court, they must deliver written submissions to Goldblatt Partners LLP (“Class Counsel”), at the address below, no later than June 1, 2022, so that it can be brought to the attention of the Court, the Plaintiff and the Defendants in advance. Any written submissions must include:

- Name;
- Brief reasons why the Class Member supports or opposes the Proposed Settlement; and
- Whether the Class Member intends to attend the hearing to approve the Proposed Settlement.

Please note that any written submissions will **NOT** be confidential, and they will be shared with the Defendants and filed publicly with the Court.

TERMS OF THE PROPOSED SETTLEMENT

The detailed terms of the Proposed Settlement are set out in the Settlement Agreement between the parties. A copy can be viewed on the class action settlement website and at goldblattpartners.com. A copy can also be obtained by contacting Class Counsel. This Notice contains a summary of some of the key terms of the Settlement Agreement. If there is a conflict between this Notice and the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

Pursuant to the Proposed Settlement, the Corporate Defendants shall classify destination staff as employees pursuant to the *Employment Standards Act, 2000*, S.O. 2000, c. 41 (“*ESA*”), *Employment Insurance Act*, S.C. 1996, c. 23, and the *Canada Pension Plan*, R.S.C., 1985, c. C-8 (“*CPP*”) on a go-forward basis following Final Approval. For greater clarity, destination staff includes, Directors, Coordinators, Trip Leaders/Bus Captains and any future positions performing substantively similar duties or roles under different job titles.

In accordance with the classification of destination staff as employees pursuant to the *ESA*, the Corporate Defendants shall implement a system to track and record their hours of work for the purposes of compensating hours of work and overtime and maximum allowable hours of work, and any other obligations imposed by the *ESA* or subsequent amendments.

Pursuant to the Proposed Settlement, the Defendants will also pay \$450,000 (the “Settlement Fund”) to compensate for trips the Class Members took during the Class Period. Payments will be made from the Settlement Fund for Class Counsel fees (subject to Court approval), disbursements and a representative plaintiff honorarium (subject to Court approval) (see more information below). There will also be holdbacks for administrative expenses and taxes (approximately \$94,213). The remaining amount (the “Claim Fund”) will be distributed to Class Members through a claims process overseen by a Claims Administrator, RicePoint Administration Inc. (the “Claims Administrator”), based on the number of S-Trip or Breakaway Tours trips worked by a Class Member as a Trip Leader during the Class Period (“Trips”). It is estimated that the Claim Fund will be approximately \$210,700.83.

Class Members will make a claim to the Claims Administrator using a claim form pre-populated with data provided by the Defendants regarding the Trips worked by the Class Member during the Class Period. The Claims Administrator will determine how many Class Members have made a claim and will divide the amounts among Class Members based on the number of Trips worked, when they worked on Trips, and whether Trips worked on or after May 22, 2016 were for Breakaway Tours or S-Trip. Trips that occurred in the pre-limitation period (Trips worked prior to more than two years before the commencement of the Class Action, i.e. Trips prior to May 22, 2016) will be discounted for the fact that claims made more than two years before the losses occurred are usually subject to a “limitation period” and disallowed, subject to certain exceptions. Based on an estimated 50% take-up rate in each category, we estimate that Class Members who submit an eligible claim will receive \$100 for each Trip worked during the pre-limitation period, \$324.78 for each Breakaway Tours Trip worked during the post-limitation period, and \$668.30 for each S-Trip Trip worked during the post-limitation period. When factoring in their \$150 honoraria and the deemed value of their room at board under the *Employment Standards Act, 2000*, this means that Class Members would be paid the equivalent of just over eight hours at the weighted average minimum wage during the Class Period for Trips during the post-limitation period. These payments are just estimates and may be higher or lower depending on the ultimate take-up rate.

Payments to Class Members are subject to income tax and statutory payroll deductions such as CPP/EI.

MAKING A CLAIM

If the Proposed Settlement is approved, Class Members will receive a Notice of Settlement Approval, which will include information about the process of making a claim and a Unique Identifier Code for making a claim on the online claims portal on the class action settlement website (the “Notification Letters”).

If your name is on the Class list provided by the Defendants, you will be considered a member of the Class. If your name is not on the Class list, you may be required to submit documents proving your membership in the Class. If the Claims Administrator determines you are not a Class Member, you may appeal to a referee, provided you pay a fee.

To receive a payment under the Proposed Settlement you must complete an Administration Form and submit it to the Claims Administrator by the deadline (120 days from Final Approval of the Proposed Settlement).

The Administration Form will require you to indicate the type and number of Trips worked during the Class Period and the date of these Trips and confirm that you were employed as a Trip Leader at all relevant times during the Class Period. This information will be pre-populated in the Administration Form by the Claims Administrator with data from the Defendants’ records. If you have a dispute regarding the Records used to calculate your entitlement as detailed on the Administration Form (“Dispute”), you must advise the Claims Administrator of the Dispute and provide documentation or reasons in support of an alternative calculation within the one hundred and twenty (120) days following distribution of the Notification Letters. Class Counsel shall review the information provided by any Class Member and, if necessary, seek input from the Defendants and Claims Administrator. Class Counsel shall then instruct the Claims Administrator on how compensation to the Class Member shall be calculated and the Claims Administrator shall advise the Class Member of any new calculation or the reason for maintaining the original calculation within thirty (30) days of receiving the Dispute. If this Dispute is not resolved to your satisfaction, you may appeal the Claims Administrator’s determination to a referee, provided you pay a fee (“Dispute Appeal”).

You will receive payment by cheque. Class Members will need to ensure their updated address and contact information is provided to the Claims Administrator. The settlement payments are taxable and subject to employment-related deductions such as CPP/EI. Cheques not cashed within six months will be treated as stale and any such amounts may be donated to charity in accordance with the terms of the Proposed Settlement.

LEGAL FEES / HONORARIUM

Pursuant to the Proposed Settlement and subject to the Court’s approval, Class Counsel (the lawyers for the Class Members) will receive legal fees of \$100,000, plus HST of \$13,000, and disbursements of \$22,199.49 plus HST of \$2,885.93. This is consistent with the retainer agreement between the representative Plaintiff and Class Counsel.

Pursuant to the Proposed Settlement and subject to the Court’s approval, the representative Plaintiff will receive \$5,000 which recognizes her efforts and time in advancing this class proceeding.

OPT-OUT PROCESS

Class Members will be bound by the terms of the Proposed Settlement, if approved by the Court, unless they opt out. This means that, unless you opt out, you will not be able to start or continue with any other claim or legal proceeding against the Defendants in relation to the matters alleged in the class action lawsuit. If a Class Member opts out, they will NOT be eligible to participate in or receive ANY compensation pursuant to the Proposed Settlement. The deadline to opt out is May 15, 2022.

If you do not want to be part of this Settlement, you may opt out by filling out the provided “opt-out” notice and sending it to RicePoint Administration Inc. at the following address:

RicePoint Administration Inc.
S-Trip Class Action Administrator
P.O. Box 3355

London (Ontario)
N6A 4K3
tripclassaction@ricepoint.com

MORE INFORMATION AND CLASS COUNSEL

For more information, or if you have any questions, please contact Class Counsel at the address below:

Goldblatt Partners LLP
Attention: Tanya Atherfold-Desilva
20 Dundas Street West, Suite 1039
Toronto, Ontario M5G 2C2
Tel: 416-979-4233 / Fax: 416-591-7333
Email: tatherfold@goldblattpartners.com

THIS NOTICE WAS APPROVED BY THE ONTARIO SUPERIOR COURT OF JUSTICE.