

ALASKA/HORIZON SHORT-TERM MILITARY LEAVE LITIGATION
Clarkson v. Alaska Airlines, Inc., Case No. 2:19-cv-0005 (E.D. Wash.)

NOTICE OF CLASS ACTION SETTLEMENT & HEARING

If you are or were a pilot at Alaska Airlines or Horizon Air who took short-term military leave for a period of 30 days or fewer at any time from October 10, 2004, through May 31, 2023, please read this Notice.

A federal court authorized this Notice. This is not a solicitation from a lawyer.

- The lawsuit alleges that Defendants Alaska Airlines, Inc. (“Alaska”) and Horizon Air Industries, Inc. (“Horizon”) did not provide paid leave to employees who took short-term military leave while paying employees for other, allegedly comparable forms of leave.
- The Court has determined that this lawsuit can proceed as a class action on behalf of all current and former permanent pilot employees of Alaska and Horizon who took short-term military leave (periods of 30 consecutive days or fewer) from their employment with Alaska or Horizon at any time from October 10, 2004, through May 31, 2023.
- The parties in this lawsuit have agreed to settle the case. Under the proposed Settlement, the Defendant has agreed to pay \$4.75 million to the Class and to provide four days per year of paid short-term military leave to Class members going forward.
- The Court has preliminarily approved the Settlement. The Settlement will not become final unless and until the Court issues final approval after a hearing, which is currently scheduled for January 15, 2025.

PLEASE READ THIS NOTICE CAREFULLY. IF YOU ARE A MEMBER OF THE CLASS, THIS SETTLEMENT WILL AFFECT YOUR RIGHTS. THERE ARE IMPORTANT DEADLINES DETAILED IN THIS CLASS NOTICE.

A SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS

<p>For All Class Members (Other than Horizon Pilots Between 2004 and 2008): Do Nothing</p>	<p>If you have already been identified by the parties as a Class Member and you do nothing, you will receive the payment that you are entitled to receive under the Settlement based on the data available to Class Counsel. An individualized estimate of your settlement award based on this data has been included with this Notice.</p>
<p>For Horizon Pilots from 2004 through 2008 Only: Submit a Claim</p>	<p>Horizon does not have military leave data for the period between October 10, 2004, and October 2, 2008. If you received a Claim Form, you have been identified as a pilot at Horizon between 2004 and 2008.</p> <p>If you also received an individualized estimate of your Settlement award with this Class Notice, this estimate does not account for any short-term military leave you took during this period. You must submit a Claim Form to receive credit for short-term military leave you took during this period for purposes of calculating your Settlement award.</p> <p>If you received a Claim Form but did not receive an individualized estimate with this Class Notice, Class Counsel does not have any military leave data for you, and you must submit a Claim Form in order to receive a Settlement award.</p> <p>If you wish to submit a claim for short-term military leave between October 10, 2004, and October 2, 2008, you must follow the directions in this notice and submit your request by <u>December 20, 2024</u>.</p>
<p>For Certain Horizon Pilots from 2004 through 2008 Only: Opt-Out</p>	<p>If you did not receive an individualized estimate of your settlement award with this Class Notice, you were not previously identified as a Class Member and you have the right to opt-out of the Settlement. If you wish to opt-out of the Settlement, you must follow the directions in this Notice and submit your request by December 20, 2024. If you opt-out, you will not receive any benefits from the settlement and cannot object.</p>
<p>For All Class Members: Object</p>	<p>If you wish to object to the settlement or the request for attorneys' fees and reimbursement of expenses, you must follow the directions in this notice and submit your objection by December 20, 2024. You may not both opt-out of the Settlement and object to the Settlement, because if you opt-out the Settlement will not affect you.</p>

BASIC INFORMATION

1. Why did I get this notice?

You received this Notice because the Court in charge of this class action lawsuit has ordered this Notice be sent to persons who are members of the Class, and you were identified from the records of Defendants as either (a) a Class Member or (b) a Horizon pilot between 2004 and 2008 who may or may not be a Class Member. The Court in charge of this case is the United States District Court for the Eastern District of Washington, and the case is *Clarkson v. Alaska Airlines, Inc.*, Case No. 2:19-cv-0005 (E.D. Wash.).

The purpose of this Notice is to inform you about this lawsuit, the certification of a Class, the terms of the proposed Settlement, and your rights in connection with the proposed Settlement and a hearing to be held before the Court on January 15, 2025, to consider the fairness, reasonableness, and adequacy of the proposed Settlement and related matters.

2. What is this lawsuit about?

The Uniformed Services Employment and Reemployment Rights Act (“USERRA”) requires that servicemembers who take leaves of absence from their civilian employers to perform qualified military service be treated no less favorably than employees who take other comparable forms of leave.

The Defendants in this case are Alaska Airlines and Horizon Air. The lawsuit alleges that Alaska and Horizon violated USERRA by paying employees who took jury duty, sick leave, bereavement leave and other types of leave but not providing pay or benefits to employees who took short-term military leave. This claim is described in detail in the Complaint in this lawsuit, which is available at <https://www.simpluris.com/case-search/>. Defendants deny that they violated USERRA and state that they are only settling to avoid the risks and expense of further litigation.

3. What is a class action?

In a class action, one or more people called class representatives (in this case, Casey Clarkson, Ryan Schwend, Scott Silvester and Matt Fisk) sue on behalf of people who have similar claims. If the Court “certifies” the class (i.e., approves the case for class treatment), the Court resolves the issues for all class members.

4. What has happened in this case?

Plaintiff filed this lawsuit on January 7, 2019. Defendants initially moved to dismiss the complaint, which the Court denied. Defendants filed their answer to the Complaint on April 17, 2019, in which it denied violating USERRA and asserted numerous defenses. Class Counsel and Defendants engaged in substantial discovery (a process through which the parties exchange documents and other information). As part of that process, Class Counsel sought, obtained, and reviewed thousands of pages of documents related to Plaintiff’s claims. That process also involved the depositions of multiple witnesses.

Plaintiff filed his Motion for Class Certification on May 20, 2020, which Defendants opposed. The Court certified a Paid Leave Class of Horizon and Alaska pilots to bring the USERRA paid leave claims described in this Class Notice. Plaintiff’s other claims proceeded on an individual basis and have since all been resolved.

The district court granted summary judgment against the Plaintiff on the USERRA paid leave claims, but that decision was reversed by the United States Court of Appeals for the Ninth Circuit. Following further discovery, Plaintiff, Class Counsel and Defendants participated in an in-person mediation with a private mediator on October 11, 2023, at which they reached a settlement-in-principle as to the monetary terms of settlement. Plaintiff, additional class representatives Ryan Schwend, Scott Silvester and Matt Fisk, Class Counsel, and Defendants participated in a further online mediation with the same private mediator on December 6, 2023, at which they reached a settlement-in-principle as to the non-monetary terms of settlement. The parties subsequently negotiated a final Settlement Agreement, which was executed on August 15, 2024.

On September 25, 2024, the Court preliminarily approved the Settlement with Defendants. The Court has scheduled a Final Approval Hearing to evaluate the fairness and adequacy of the Settlement.

5. Who is in the class in this class action and how do I know if I am a Class Member?

The Court has certified the following class for purposes of the settlement:

Current and former Alaska or Horizon pilots who have taken short-term military leave (periods of 30 days or fewer) from October 10, 2004, through May 31, 2023.

Excluded from the Classes are persons who previously reached settlements with or judgments against Defendants resolving or releasing any claims arising during the Class periods under USERRA related to any of the claims in this lawsuit.

Based on data from the Defendants, Class Counsel has identified approximately 600 Class Members who meet the definition of the Class and approximately 630 Horizon pilots between 2004 and 2008 who may be members of the Class. If you received this Notice in the mail or by email (without requesting that the Notice, be mailed to you), and the Notice included an individualized estimate of your Settlement award, you are one of the Class Members who has been identified. If you received this Notice in the mail or by email (without requesting that the Notice, be mailed to you), and the Notice did **not** include an individualized estimate of your Settlement award, you have been identified as a Horizon pilot between 2004 and 2008 who may or may not be a member of the Class. If you were a Horizon pilot between 2004 and 2008 and took military leave during that time, you will need to submit a Claim Form in order to receive a Settlement award for that leave.

If you would like to confirm that you are a Class Member, please contact the Settlement Administrator using the contact information provided in Section 11.

6. Why is there a Settlement?

The Court did not decide in favor of Plaintiff or Defendants. Instead, both sides agreed to the proposed Settlement to avoid a trial and to provide compensation to the Class Members. In deciding to settle the lawsuit, the Class Representatives and Class Counsel considered, among other things, (a) the strength of the Class's claims as determined from a review of the law and an investigation of the facts; (b) the potential monetary recovery; (c) the expense and length of continued proceedings, including possible trial and post-trial proceedings and appeals, necessary to prosecute the lawsuit; (d) the risks arising from the existence of unresolved questions of law and fact; (e) the nature and strength of defenses asserted by and available to Defendants; and (f) the risks and uncertainties of continued class action litigation of this nature. The Class Representatives and Class Counsel believe that the proposed Settlement is fair, reasonable, adequate, and in the best interests of the Class.

7. How do I know if I am part of the Settlement?

If you are a member of the Class described in Section 5, above, you are part of the proposed Settlement. If you aren't sure about your status as a Class Member, then you can contact the Settlement Administrator at the address below.

THE PROPOSED SETTLEMENT – ESSENTIAL TERMS

8. What are the terms of the proposed Settlement?

Defendant will pay \$4.75 million into a settlement fund. After deduction of any Court-approved attorneys' fees and costs and any Court-approved service awards to the Class Representatives, the net settlement amount will be distributed to the Class pursuant to a Court-approved distribution formula called the "plan of allocation." Payments from the net settlement fund will compensate Class Members for Defendants' failure to provide paid leave to Class Members for periods of short-term military leave. The proposed Plan of Allocation is described in the Appendix to this Notice.

Additionally, Defendants have agreed that Class Members will receive up to four days per calendar year of paid short-term military leave going forward. Each day of paid short-term military leave shall be paid at the Class Members' hourly wage as provided by the applicable collective bargaining agreement ("CBA"). The pay for each day shall be equivalent to the Minimum Daily Guarantee at Alaska (as defined by the Alaska CBA, currently five hours) and the Minimum Daily Credit at Horizon (as defined by the Horizon CBA, currently four hours and twelve minutes). To qualify for payment for any such day of short-term military leave, the pilot must provide

notice of the military leave no later than the deadline for disclosing known absences. Holidays (as defined by the Alaska CBA or Horizon CBA, as applicable) are ineligible for paid short-term military leave. Paid short-term military leave days must be used each calendar year, or they will be forfeited. Paid short-term military leave will be paid at the end of the calendar year or the end of the Class Member's employment, whichever is earlier.

Pilots' ability to take unpaid military leave (in accordance with USERRA and the terms of the Alaska CBA or Horizon CBA, as applicable) will not be affected by this paid short-term military leave benefit.

9. What am I giving up under this Settlement?

If the Court grants final approval of the Settlement and the Settlement becomes effective, then all Class Members will give up – in legal terms, release – their right to sue Defendants for failure to provide pay or benefits under USERRA during periods of short-term military leave from October 10, 2004 through May 31, 2023. The full details of the Release are contained in Section 11 of the Settlement Agreement, which can be found on the Settlement Administrator's web site at www.alaskamilitarypaidleave.com.

10. What will the Class Representatives get under the Settlement?

The Class Representatives will receive Settlement awards calculated under the Plan of Allocation like every other Class Member. In addition, Class Counsel will ask the Court to award a service award to Plaintiff Casey Clarkson in the amount of \$15,000.00 and to award a service award to each of the Additional Class Representatives (Ryan Schwend, Scott Silvester and Matt Fisk) in the amount of \$5,000.00 each. The proposed service awards recognize the service that the Class Representatives provided including appearing for depositions, responding to discovery, and participating in mediation and settlement negotiations.

THE LAWYERS REPRESENTING YOU AND THE CLASS

11. Do I have a lawyer in this case?

Yes. The Court has appointed R. Joseph Barton of Barton & Downes LLP and Michael Scimone of Outten & Golden LLP as Class Counsel to represent the Class Members. Additional firms are also assisting in representing the Class. You will be represented by Class Counsel in the litigation including with the implementation of the Settlement throughout the duration of the terms of the Settlement. Although it is not necessary, you have the right, if you wish to do so, to retain your own attorney at your own expense.

If you have questions about the terms of the proposed Settlement you may contact Class Counsel at the addresses below:

R. Joseph Barton
BARTON & DOWNES LLP
1633 Connecticut Avenue N.W., Suite 200
Washington, DC 20009
Telephone: (202) 734-7046
Email: AlaskaUSERRA@bartondownes.com
Website: www.bartondownes.com

Michael Scimone
OUTTEN & GOLDEN LLP
685 Third Avenue, 25th Floor
New York, New York 10017
Telephone: (347) 390-2159
Fax: (646) 509-2060
Email: Vets@outtengolden.com
Website: www.userrarights.com

If you have questions about issues regarding this Notice you should contact the Settlement Administrator. Their contact information is below.

Clarkson v. Alaska Airlines, Inc.
P.O. Box 26170
Santa Ana, CA 92799
Telephone: (833) 285-3398

12. How will the lawyers be paid?

Class Counsel will ask the Court for an award from the Settlement Fund of attorneys' fees and expenses incurred during the litigation. Class Counsel will not seek fees exceeding one-third of the \$4.75 million cash settlement fund, plus expenses. Class Counsel will be paid fees in an amount approved by the Court. These fees will pay Class Counsel for investigating the facts, litigating the case, and negotiating and implementing the settlement. To date, Class Counsel has collectively spent more than 3,500 hours litigating the case which currently has a value of more than \$2.2 million (and Counsel will continue to incur time and expenses to finalize the settlement). Class Counsel has also advanced more than \$175,000.00 in expenses to litigate this case. The Court may award less than these requested amounts to Class Counsel. The Court will examine the request for fees and reimbursement of expenses of Class Counsel at the Fairness Hearing, as well as any objections to that request, and determine the amount of fees and expenses to award.

HOW TO PROCEED

13. What are my options?

After reviewing the terms of the proposed Settlement set forth in this Notice, you have at least two options. You must decide at this stage whether you want to do nothing or whether you want to object to the Settlement. If you were a Horizon pilot between October 10, 2004, and October 2, 2008, you must also decide whether to submit a claim form or opt-out of the Class.

17. How do I tell the Court what I think about the Settlement?

The Court must assess the overall fairness and reasonableness of the Settlement to the Class. If you are a Class Member, then you can object to the Settlement if you don't like any part of it, and the Court will consider your views. To object to the Settlement and have your objection considered by the Court, you must submit a written objection to the Settlement which must be postmarked on or before December 20, 2024. Your objection needs to contain (1) your name, address, email(s), and telephone number(s) and an appearance on behalf of any counsel representing you (if any); (2) the title of the lawsuit, *Clarkson v. Alaska Airlines, Inc.*, Case No. 2:19-cv-0005 (E.D. Wash.), (3) a written statement of the grounds for your objection; (4) a statement of whether you intend to appear at the Final Approval Hearing, and, if you will appear through counsel, the identity of your counsel, and (5) your signature and the date.

Your objection needs to be addressed to the Settlement Administrator:

Clarkson v. Alaska Airlines, Inc.
P.O. Box 26170
Santa Ana, CA 92799
Telephone: (833) 285-3398

18. Can I opt-out of the Class?

You only have the right to opt-out of the Class if you were a pilot who took short-term military leave at Horizon between October 10, 2004, and October 2, 2008, and you did not previously receive an opportunity to opt-out of the Class. **You potentially fall into this category if you received a Class Notice but did not receive an individualized estimate of your Settlement Award.**

To opt-out of the Settlement, you must submit send a request to opt-out stating (1) your name, address, email(s), and telephone number (2) the title of the lawsuit, *Clarkson v. Alaska Airlines, Inc.*, Case No. 2:19-cv-0005 (E.D. Wash.), (3) a written statement that you want to opt out of the settlement and (4) your signature and the date. Your opt-out request must be postmarked on or before December 20, 2024 and sent to the Settlement Administrator:

Clarkson v. Alaska Airlines, Inc.
P.O. Box 26170
Santa Ana, CA 92799
Telephone: (833) 285-3398

If you opt-out of the Class, you will not receive any benefits under this Settlement Agreement but will not give up your right to sue Alaska or Horizon for failure to provide pay or benefits under USERRA during periods of short-term military leave from October 10, 2004, through May 31, 2023. If you opt-out of the Class, you may not object to the Settlement, because the Settlement will not affect you.

18. How do I submit a claim?

You do not need to submit a claim for short-term military leave you took from Alaska between October 10, 2004 through May 31, 2023, or from Horizon between October 2, 2008, and May 31, 2023. However, if you were a pilot who took short-term military leave at Horizon between October 10, 2004, and October 2, 2008, you must submit the enclosed Claim Form to receive credit for that short-term military leave in calculating your Settlement Award.

To submit a claim for short-term military leave at Horizon between October 10, 2004, and October 2, 2008, you must send the enclosed Claim to the Settlement Administrator, which must be postmarked on or before December 20, 2024.

Clarkson v. Alaska Airlines, Inc.
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THE COURT'S FAIRNESS HEARING

19. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing (called a Fairness Hearing) at 11:00 a.m. on January 15, 2025, in the courtroom of the Honorable Thomas O. Rice, at the United States District Court for the Eastern District of Washington, 920 West Riverside Ave., Spokane, Washington.

At the Fairness Hearing, the Court will determine whether the proposed Settlement is fair, reasonable, and adequate. If there are any objections, then the Court will consider them. The Court will also consider whether the motion of Class Counsel for an award of attorneys' fees and reimbursement of expenses should be approved, whether Plaintiff's motion for service award for the Class Representative should be approved, and whether, in accordance with the Settlement, a final order and judgment should be entered bringing the litigation to a conclusion.

20. Do I have to come to the Fairness Hearing?

No. Class Counsel and the Defendants' counsel will answer questions that the Judge may have. If you send an objection, then you don't have to come to Court to talk about it, but you are entitled to if you want to. As long as you mailed your written objection on time, the Court will consider it.

21. May I speak at the hearing?

You may speak at the Fairness Hearing if the Court allows it. The Court may allow you to speak only if you have filed an objection. You may appear either in person or through a lawyer hired at your own expense. You may withdraw your objections at any time.

SETTLEMENT NOT YET FINAL

22. Can the settlement be terminated?

If there is no final Court approval of the proposed Settlement in this case, or if Class Counsel or Defendants withdraw from the Settlement in accordance with the Settlement Agreement, or if the Settlement is not consummated for any other reason, the Settlement Agreement will become null and void, and the parties will resume their former positions in the lawsuits.

GETTING MORE INFORMATION

23. Where can I get more information?

This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement, the proposed Plan of Allocation, and other relevant documents by visiting the case web site, www.alaskamilitarypaidleave.com, or by contacting the Settlement Administrator or Class Counsel. If you have further questions or are still not sure whether you are included, contact the Settlement Administrator at (833) 285-3398, or by calling or writing to Class Counsel in this case at the contact numbers/address listed in Section 11.

Again, the important deadlines are:

Last Day to Object to The Settlement, Opt-Out, or Submit a Claim: December 20, 2024

Final Approval Hearing: January 15, 2025.

PLEASE DO NOT CALL OR CONTACT THE COURT, THE OFFICE OF THE CLERK OF COURT, OR DEFENDANTS WITH QUESTIONS REGARDING THIS NOTICE.