



GERSON & SCHWARTZ, P.A.

**CONFIDENTIAL ATTORNEY CLIENT PRIVILEGE**

**Re: Broin Class Action Individual Flight Attendant Law Suits**

Dear Client:

I would like to update you on the status of your case. Together with other lawyers representing flight attendants in individual lawsuits, I have received many calls and inquiries expressing frustration with the progress in the cases. The attorneys representing flight attendants have been meeting regularly over the last 12 months analyzing strategies and to compensate you. After in depth analysis, we have reached consensus for the best way bring this litigation to a successful conclusion and finally provide you with monetary compensation we believe you deserve.

***Background & History of this Litigation***

First, let me give you some background and history of this litigation. This case was brought as a Class Action Lawsuit on behalf of all flight attendants who were exposed to second hand smoke in United States commercial airline cabins and suffered certain injuries as a result of exposure. During the class action trial in 1997, settlement agreement was made between the tobacco companies and the Class Representative flight attendants. This means that a small number of flight attendants who were court authorized to bring the lawsuit on behalf of all injured flight attendants, agreed to settle the case. The Court approved the settlement despite objections of some class members.

Stanley & Susan Rosenblatt, class counsel representing all flight attendants in the Class Action, called the settlement a victory for all flight attendants. The Rosenblatt's and the defendant tobacco companies convinced the judge to approve the settlement based on their claim that the settlement agreement provided substantial benefits to you and all other injured flight attendants. The benefits claimed were:

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**Exhibit "A2"**

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1. The funding of a \$300 million medical foundation for the sole purpose to provide scientific research for the early detection & cure of diseases of flight attendants caused by exposure to second hand smoke.
2. The flight attendants retained reduced legal rights to file lawsuits against the tobacco companies under limited legal theories, and the tobacco companies would agree not to contest in general that certain diseases are caused by second hand exposures to cigarette smoke, but the tobacco companies could dispute that every flight attendant's disease was caused by second hand smoke and could claim the disease was caused by something other than their exposure. The cases were represented by the Rosenblatt's as a simple legal proceedings which would provide fair compensation to all class members.

Approximately 3,000 flight attendants filed law suits with a new group of attorneys (my law firm included along with others) My firm had nothing to do with agreeing to the settlement of the original class action. It is clear now 12 years since this agreement was reached; the settlement **HAS NOT** met its goal of benefiting the class members. It has not benefited you or the other injured flight attendants. Here are the reasons you did not benefit:

#### *Class Action Settlement Prevent Crucial Legal Theories*

Since the settlement agreement drawn and signed by the Rosenblatt's limited the legal theories, it prevents you from bringing claims against the tobacco companies or presenting evidence the tobacco companies acted intentionally or with reckless indifference toward your health. Claims that the tobacco companies committed Fraud, Misrepresentations, Conspiracy to Commit Fraud, Racketeering, Suppression of Evidence, and other intentional acts were waived under the agreement made by class counsel. This prohibited evidence which could be used to show juries that the tobacco companies knew about the dangers of exposures to second hand smoke. Simply put, in your case, we cannot show the jury evidence that tobacco companies knew that people in confined spaces exposed to smoke would suffer the same diseases as those who smoked and concealed and suppressed those facts. In my opinion these concessions accounted for the outcomes in the jury verdicts which resulted **flight attendants losing 10 of the 11 cases tried**. To make matters worse, the settlement agreement provided no protection for flight attendants who lost in court from tobacco companies collecting legal fees and expenses against the flight attendant. Sadly and unjustly that is exactly what has happened. In several cases flight attendants have been forced to pay money to the tobacco companies!

#### *The \$300 Million Medical Foundation*

Use of the foundation money by the Rosenblatt's did not achieve the expressed and intended purpose to benefit the flight attendants. The medical foundation, formed as Flight

Attendant Medical Research Institute, Inc., was required to provide medical and scientific research for the early detection & cure of diseases of flight attendants caused by exposure to second hand smoke. These goals were never undertaken so it is not surprising they were not archived.

After the settlement agreement was signed Congress passed a total smoking ban on all United States commercial flights on April 4, 2000. This long awaited legislation was not the product of FAMRI efforts. But it did provide substantial protection for future flight attendant generations. The ban made the purposes of the medical foundation largely unnecessary and indeed almost impossible to achieve. No one can perform research on the specific topic of flight attendant exposure to second hand smoke and resulting diseases without either (1) violating federal law or (2) voluntarily exposing flight attendants to second hand smoke, in a study which in essence is unethical.

#### *Medical Foundation Not Used for Intended Purpose*

The trustees and/or board members of the medical foundation on which class counsel, Stanley and Susan Rosenblatt also serve as members, have not, in our judgment, used the \$300 million fund for the purposes intended--to benefit flight attendants! Our investigation has uncovered for example, the funds have been used to help physicians rebuild their medical practices harmed by Hurricanes Katrina, Rita and Wilma and many other charitable favorites of the Rosenblatt which are totally unrelated to flight attendants health or welfare. Instead FAMRI has funded much general research on the broad topic of smoking related illnesses. For example, Settlement Funds have been used for research on "Novel genetic region identified for childhood asthma in Mexico." There are many more examples too numerous to include in this brief letter. We are sympathetic to the Rosenblatt's charity with flight attendant settlement funds but feel they have not fulfilled their duty to benefit the class members.

#### *What to Do Next/Plan*

After careful consideration and analysis of the legal and practical issues the judgment of a group of attorneys who are representing the individual flight attendants is to advise our clients to act. We propose filing a petition on behalf of you and all other class members [excepting any who do not want to participate] against FAMRI and its board members. In the petition we would, on your behalf, ask the judge to modify the original settlement agreement and to pay all available remaining funds to the individual flight attendants on an equal basis. Recovery of funds not expended properly may occur too. If successful you would receive a cash distribution of a least a portion of the remaining funds.

If you would like to participate in a claim against the Medical Foundation known as FAMRI, to have a judge modify the settlement agreement, take other legal action, and to disburse you and the other individual flight attendants who suffered injuries, please indicate

on your behalf, ask the judge to modify the original settlement agreement and to pay all available remaining funds to the individual flight attendants on an equal basis. Recovery of funds not expended properly may occur too. If successful you would receive a cash distribution of a least a portion of the remaining funds.

If you would like to participate in a claim against the Medical Foundation known as FAMRI, to have a judge modify the settlement agreement, take other legal action, and to disburse you and the other individual flight attendants who suffered injuries, please indicate below and return this letter with your signature along. Our attorney's fee agreement will remain the same as the original 30% contingent fee contract agreed upon when we were retained. A new revised agreement will forwarded to you if you sign and return a copy of this letter. Naturally, all flight attendants who filed lawsuits are being offered the same opportunity and Agreement for Representation. If you agree to this proposal please sign below and return this letter to us as soon as possible. Thank you,

GERSON & SCHWARTZ P. A.

By: \_\_\_\_\_  
Philip M. Gerson

I authorize Gerson & Schwartz P.A. to represent me for to seek monetary compensation on my behalf.

This 4<sup>th</sup> day of DEC, 2010

Signature Norva L. Achenbach

Printed name NORVA L. ACHENBACH

Email \_\_\_\_\_

Telephone \_\_\_\_\_