

*Levey, et al. v. Concesionaria Vuela Compañía de Aviación, S.A.P.I. de C.V. (“Volaris”)*

U.S.D.C., Northern District of Illinois, Eastern Division

Case No. 1:20-cv-02215

**EL AVISO EN ESPAÑOL ESTÁ A CONTINUACIÓN.**

**If you were a passenger on a Volaris flight that was cancelled or significantly delayed by the airline for reasons related to the COVID-19 pandemic beginning in March 2020, you may be entitled to receive on average \$197, but it may be more or less as explained below.**

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

- **A proposed settlement will provide \$3,500,000 (the “Settlement Fund”) to fully settle and release claims of the following individuals:**

**All ticketed U.S. citizen passengers on Volaris flights to, from or within the United States, whose flights were scheduled to operate between March 20, 2020 and November 30, 2020, but were canceled or significantly delayed by Volaris for reasons related to the COVID-19 health emergency and who did not (1) accept alternative transportation offered by Volaris, (2) receive a refund from Volaris or any applicable third party, or (3) receive a flight voucher from Volaris for future transportation and use that voucher in full.**

Excluded from the Settlement Class are Defendant and any of its respective officers, directors or employees, the presiding judge, Class Counsel and members of their immediate families, and persons or entities who timely and properly exclude themselves from the Settlement Class.

- **Volaris denies Plaintiffs’ allegations and denies any wrongdoing whatsoever. The Court has not ruled on the merits of Plaintiffs’ claims or Volaris’ defenses. By entering into the settlement, Volaris has not conceded to the truth or validity of any of the claims brought against it.**
- **The Settlement Funds shall be used to pay amounts related to the settlement, including awards to Settlement Class, attorney’s fees and costs to the attorney representing Plaintiffs and the Settlement Class (“Class Counsel”), any service award for Plaintiffs and the costs of notice and administration of the settlement. Class Counsel estimate that Settlement Class Members will receive approximately \$197 (“Initial Settlement Award”). In no event shall a Settlement Class Member’s Initial Settlement Award exceed the total amount they paid for their flight less any refund already received from Volaris or any applicable third party. If a Settlement Class Member received a voucher from Volaris and redeemed it, the amount of their cash award will be reduced by the same amount. Any monies remaining in the Settlement Fund after the Initial Settlement Awards are distributed, and the expiration date of any checks has passed, will be distributed on a *pro rata* basis to those Settlement Class Members who cashed their Initial Settlement Award check or accepted their electronic payment (the “Subsequent Distribution”), so long as the amount to be distributed is at least \$5.00 per Class Member. Such *pro rata* share shall not exceed the total amount paid by each Settlement Class Member for their canceled or significantly delayed flight, including airfare taxes and ancillary charges, less any refund and/or the redeemed amount of any voucher provided by Defendant and less the amount of the Initial Settlement Award payment. The Subsequent Distribution shall be made within thirty (30) days after the expiration date of the Initial Settlement Award checks or the date of transmission of electronic payments. If there is not enough money to pay at least \$5.00 to each Settlement Class Member who cashed their Initial Settlement Award check or accepted their Initial Settlement Award electronic payment, or if any checks or electronic payments from the subsequent distribution remain uncashed after the stale date or electronic payments unaccepted, those funds shall be distributed *cy pres* to Travelers United.**
- **Your rights and options, and the deadlines to exercise them, are explained in this Notice. Your legal rights are affected whether you act or do not act. Read this Notice carefully.**

**SUMMARY OF LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

<p><b>DO NOTHING</b></p>	<p>All Settlement Class Members will receive an estimated payment of \$197 by check mailed to their last known address unless electronic payment is elected by the Class Members. The \$197 is an estimate, but it may be more or less depending on whether you were issued a voucher and used any portion of that voucher as all payouts are capped at the amount of the fare accounting for any voucher used. If there is no known valid mailing address but the Class List contains a valid email address, then electronic payment will be sent automatically to that email address. You may also elect electronic payment by visiting <a href="http://www.volarisrefund.com">www.volarisrefund.com</a>, entering your Class Member ID and following the directions on the website.</p>
<p><b>EXCLUDE YOURSELF OR “OPT OUT” OF THE SETTLEMENT</b></p>	<p>If you ask to be excluded, you will not receive a payment. This is the only option that allows you to pursue your own claims against Volaris or other released parties related to a released claim. The deadline for excluding yourself is August 9, 2024.</p>
<p><b>OBJECT TO THE SETTLEMENT</b></p>	<p>If you wish to object to the settlement, you must write to the Court about why you believe the settlement is unfair in any respect as explained below. The deadline for objecting is August 9, 2024.</p>
<p><b>GO TO THE FINAL APPROVAL HEARING</b></p>	<p>You may attend the Final Approval Hearing. At the Final Approval Hearing you may ask to speak in Court about the fairness of the settlement. To speak at the Final Approval Hearing, you must file a document that includes your name, address, telephone number and your signature with the Court, which must also state your intention to appear at the Final Approval Hearing. This must be filed no later than October 9, 2024.</p>

- These rights and options—and the deadlines to exercise them—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the settlement. Payments (*i.e.*, Settlement Awards) will be disbursed if the Court approves the settlement and after any appeals are resolved. Please be patient.

## BASIC INFORMATION

### 1. What is the purpose of this Notice?

The purpose of this Notice is to inform you that a proposed settlement has been reached in the putative class action lawsuit entitled *Levey, et al. v. Concesionaria Vuela Compañía de Aviación, S.A.P.I. de C.V. (“Volaris”)* filed in the United States District Court for the Northern District of Illinois, Case No. 1:20-cv-02215. Because your rights will be affected by this settlement, it is extremely important that you read this Notice carefully. This Notice summarizes the settlement and your rights under it.

### 2. What does it mean if I received a postcard about this settlement?

If you received a postcard describing this settlement, it is because Volaris’ records indicate that you may be a member of the Settlement Class. The members of the Settlement Class include:

All ticketed U.S. citizen passengers on Volaris flights to, from or within the United States, whose flights were scheduled to operate between March 20, 2020 and November 30, 2020, but were canceled or significantly delayed by Volaris for reasons related to the COVID-19 health emergency, and who did not (1) accept alternative transportation offered by Volaris, (2) receive a refund from Volaris or any applicable third party, or (3) receive a flight voucher from Volaris for future transportation and use that voucher in full.

### 3. What is this class action lawsuit about?

In a class action, one or more people called Class Representatives (here, Plaintiffs, Samantha Levey and Ethan Feirstein) sue on behalf of people who allegedly have similar claims. This group is called a class and the persons included are called class members. One court resolves the issues for all of the class members, except for those who exclude themselves from the class.

Here, Plaintiffs filed the lawsuit in 2020 claiming Volaris breached its contract of carriage and Department of Transportation rules by failing to provide passengers prompt refunds for Volaris flights that were cancelled or significantly delayed by the airline for reasons related to the COVID-19 pandemic beginning in March 2020. Volaris denies these allegations and any wrongdoing. The Court has not ruled on the merits of Plaintiffs’ claims or Volaris’ defenses. The Court has conditionally certified a class action for settlement purposes only. The Honorable Robert John Blakey is in charge of this action.

### 4. Why is there a settlement?

The Court did not decide in favor of Plaintiffs or Volaris. Instead, the parties agreed to this settlement after years of litigation and two separate mediations with two different retired judges. This way, the parties avoid the risk and cost of a trial, and the Settlement Class Members will receive compensation. Plaintiffs and Class Counsel think the settlement is best for all persons in the Settlement Class.

## WHO IS IN THE SETTLEMENT CLASS?

### 5. How do I know if I am a part of the Settlement Class?

The Court has certified a class action for settlement purposes only. The Settlement Class is defined as:

All ticketed U.S. citizen passengers on Volaris flights to, from or within the United States, whose flights were scheduled to operate between March 20, 2020 and November 30, 2020, but were canceled or significantly delayed by Volaris for reasons related to the COVID-19 health emergency, and who did not (1) accept alternative transportation offered by Volaris, (2) receive a refund from Volaris or any applicable third party, or (3) receive a flight voucher from Volaris for future transportation and use that voucher in full.

A “Settlement Class Member” is any person in the Settlement Class who is not validly excluded from the Settlement Class. If you are still not sure whether you are included, you can visit other sections of the Settlement Website, [www.volarisrefund.com](http://www.volarisrefund.com), you may write to the Settlement Administrator at *Volaris Refund* Settlement Administrator, P.O. Box 301130, Los Angeles, CA 90030-1130, or you may call the Toll-Free Settlement Hotline, 1-866-755-1873, for more information.

## THE LAWYERS REPRESENTING YOU

### 6. Do I have lawyers in this case?

The Court has appointed Keith J. Keogh of the law firm of Keogh Law, Ltd., as Class Counsel to represent you and the other persons in the Settlement Class. You will not be personally charged by this lawyer.

### 7. How will Class Counsel be paid?

Class Counsel will ask the Court to approve payment of 36 percent of the Settlement Fund after administrative expenses have been deducted, which is \$1,234,840 for attorney’s fees, plus reasonable expenses. Class Counsel also will ask the Court to approve payment of \$10,000 to Plaintiffs for their services as Class Representatives if permitted by law. The Court may award less than these amounts.

## THE SETTLEMENT BENEFITS – WHAT YOU GET

### 8. What does the settlement provide?

**Settlement Fund.** Volaris will pay \$3,500,000 into a fund (the “Settlement Funds”), which will cover: (1) cash payments to Settlement Class Members; (2) an award of attorney’s fees and expenses to Class Counsel; (3) service award to the Plaintiffs, Samantha Levey and Ethan Feirstein; and (4) the costs of notice and administration of the settlement.

**Payments.** All Settlement Class Members will receive an estimated payment of \$197 by check mailed to their last known address unless electronic payment is elected by the Class Members or if there is no known valid mailing address but the Class List contains a valid email then electronic payment will be sent. In no event shall a Settlement Class Member’s Initial Settlement Award exceed the total amount they paid for their flight less any refund already received from Volaris or any applicable third party. If a Settlement Class Member received a voucher from Volaris and redeemed it, the amount of their cash award will be reduced by the same amount such that the *pro rata* estimate may be more or less than the \$197, but will not be reduced if you never used any portion of the voucher. Class Members do not need to submit a claim to receive payment. Any money remaining in the Settlement Fund after paying all Settlement Awards to Settlement Class Members, attorney’s fees and costs to Class Counsel, any service award to Plaintiffs, and the costs of notice and administration of the settlement will be distributed on a *pro rata* basis to those Settlement Class Members who cashed their Initial Settlement Award check or accepted their electronic payment, so long as the amount to be distributed per Settlement Class Member is at least \$5.00. Such *pro rata* share shall not exceed the total amount paid by each Settlement Class Member for their canceled or significantly delayed flight, including airfare taxes and ancillary charges, less any refund received from Volaris or any applicable third party and/or the redeemed amount of any voucher provided by Defendant and less the amount of the Initial Settlement Award payment. Any subsequent distribution will be

made within thirty (30) days after the expiration date of the Initial Settlement Award check or transmission in the case of electronic payments. If there is not enough money to pay at least \$5.00 to each Settlement Class Member who cashed their Initial Settlement Award check or accepted their Initial Settlement Award electronic payment, or if any checks or electronic payments from the subsequent distribution remain uncashed after the stale date or electronic payments remain unaccepted, those funds shall be distributed *cy pres* to Travelers United.

#### **9. How much will my payment be?**

Class Counsel estimates the average payout will be \$197. The \$197 is an estimate, but it may be more or less depending on whether you were issued a voucher and used any portion of that voucher as all payouts are capped at the amount of the fare accounting for any voucher use. **The final cash payment amount will depend on the costs of notice and administration, as well as the reasonable costs, attorney's fees, and incentive award approved by the Court.**

#### **10. What am I giving up to stay in the Settlement Class?**

Unless you exclude yourself from the settlement, you will be part of the Settlement Class and will be bound by the release of claims in the settlement. This means that if the settlement is approved, you cannot rely on any Released Claim to sue or continue to sue Volaris or other Released Parties, on your own or as part of any other lawsuit, as explained in the Settlement Agreement. It also means that all of the Court's orders will apply to you and legally bind you. Unless you exclude yourself from the settlement, you will agree to release Volaris and all other Released Parties, as defined in the Settlement Agreement, from any and all claims for damages as a result of flights that were canceled or significantly changed by Volaris for reasons related to the COVID-19 health emergency.

In summary, the Release includes any and all claims, whether known or unknown, for damages as a result of Volaris flights that were scheduled to operate between March 20, 2020 and November 30, 2020, but were canceled or significantly delayed by Volaris for reasons related to the COVID-19 health emergency.

If you have any questions about the Release or what it means, you can speak to Class Counsel, listed under Question 6, for free; or, at your own expense, you may talk to your own lawyer. The Release does not apply to persons in the Settlement Class who timely exclude themselves.

### **HOW TO OBTAIN A PAYMENT**

#### **11. How can I get a payment?**

All Settlement Class Members will receive an estimated payment of \$197 by check mailed to their last known address unless electronic payment is elected by the Class Members or if there is no known valid mailing address but the Class List contains a valid email then electronic payment will be sent. If a Settlement Class Member received a refund or received a voucher from Volaris and redeemed it, the amount of their cash award will be reduced by the same amount. You may elect electronic payment by visiting [www.volarisrefund.com](http://www.volarisrefund.com), entering your Payment ID and following the directions on the website. Class Members do not need to submit a Payment request to receive payment via check.

### **WHEN WILL I RECEIVE MY SETTLEMENT PAYMENT?**

#### **12. When would I receive a settlement payment?**

The Court will hold a hearing on October 9, 2024 to decide whether to approve the settlement. If the Court approves the settlement, after that, there may be appeals. It is always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. Please visit the Settlement Website at [www.volarisrefund.com](http://www.volarisrefund.com) for updates. Please be patient.

## EXCLUDING YOURSELF FROM THE SETTLEMENT

### 13. How do I get out of the settlement?

If you want to keep the right to sue, or continue to sue Volaris or a Released Party, as defined in the Settlement Agreement, then you must take steps to get out of the Settlement Class. This is called excluding yourself from, or opting out of, the Settlement Class.

Settlement Class Members who wish to exclude themselves from this Settlement Class, and from the Release pursuant to this Settlement, shall submit a written Opt-Out Request to the Settlement Administrator at the address designated in the Notice no later than the Opt-Out/Objection Deadline. Opt-Out Requests must: (i) be timely submitted by the Opt-Out/Objection Deadline; (ii) be signed by the person in the Settlement Class who is requesting to be excluded from the Settlement Class; (iii) include the full name, current mailing address, telephone number and email address of the person in the Settlement Class requesting exclusion; and (iv) include a statement or words to the effect of the following: "I request to be excluded from the Volaris Settlement Class, and understand that by doing so I will not be entitled to receive any of the benefits from the settlement." No person in the Settlement Class, or any person acting on behalf of or in concert or participation with that person in the Settlement Class, may exclude any other person in the Settlement Class from the Settlement Class.

**To be valid, you must mail your exclusion request postmarked no later than August 9, 2024 to the Settlement Administrator at *Volaris Refund Settlement Administrator, P.O. Box 301130, Los Angeles, CA 90030-1130.***

### 14. If I do not exclude myself, can I sue Volaris for the same thing later?

No. If you do not exclude yourself, you give up any right to sue (or continue to sue) Volaris or any Released Parties for the claims that this settlement resolves.

### 15. If I exclude myself, can I get a benefit from this settlement?

No. If you exclude yourself, you will not receive a settlement payment and you cannot object to the settlement.

## OBJECTING TO THE SETTLEMENT

### 16. How do I tell the Court that I do not think the settlement is fair?

If you are in the Settlement Class, you can object to the settlement, and the Court will consider your views. If you do not provide a written objection in the manner described below, you shall be deemed to have waived any objection and shall forever be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the settlement, or the award of any attorney's fees and expenses, and/or any proposed service award.

To object, you must make your objection in writing, stating that you object to the settlement. To be considered by the Court, the objector must personally sign the objection and provide the following information with it: (i) full name and current mailing address, telephone number and email address; (ii) documentation sufficient to establish membership in the Settlement Class; (iii) a statement of reasons for the objection, including the factual and legal grounds for the objector's position; and (iv) copies of any other documents the objecting Settlement Class Member wishes to submit in support of his/her/its position.

**To be considered, you must file your objections with the Court and mail a copy of your objection to the addresses below, postmarked no later than August 9, 2024.**

For Plaintiffs:

Keith J. Keogh  
Keogh Law, Ltd.  
55 West Monroe Street, Suite 3390  
Chicago, IL 60603

For Defendant:

Robert Tonn  
HOLLAND & KNIGHT LLP  
150 North Riverside Plaza, Suite 2700  
Chicago, IL 60606

**17. What is the difference between objecting and excluding yourself?**

Objecting is telling the Court that you do not like something about the settlement. You can object only if you stay in the Settlement Class. Excluding yourself means that you do not want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

**IF YOU DO NOTHING**

**18. What happens if I do nothing at all?**

If you do nothing, you will still receive a payment from the settlement and give up your rights to sue Volaris or any other released parties related to a released claim. For information relating to what rights you are giving up, see Question 10.

**THE FINAL APPROVAL HEARING**

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

The Court will hold a Final Approval Hearing at 11:00 a.m. on October 9, 2024 in Courtroom 1203 at the United States Courthouse, 219 South Dearborn Street, Chicago, IL 60604. At this hearing, the Court will consider whether the settlement is fair, reasonable and adequate. If there are valid objections that comply with the requirements in Question 16 above, the Court also will consider them and will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay to Class Counsel and Plaintiffs.

The Final Approval Hearing may be moved to a different date or time, so it is a good idea to check the Settlement Website for updates.

**20. Do I have to come to the hearing?**

No. Class Counsel will appear on behalf of the Settlement Class. But, you are welcome to come, or have your own lawyer appear, at your own expense.

**21. May I speak at the hearing?**

You may ask the Court for permission to speak at the Final Approval Hearing, but only in connection with an objection that you have timely submitted to the Court according to the procedure set forth in the answer to Question 16 above. To speak at the Final Approval Hearing, you must also file a document with the Court stating your intention to appear. For this document to be considered, it must include all of the information in the answer to Question 16 above. The document must be filed with the Court no later than August 9, 2024. You cannot speak at the hearing if you exclude yourself from the settlement.

**GETTING MORE INFORMATION**

**22. How do I get more information?**

This Notice is only a summary of the proposed settlement. You can get a copy of the Settlement Agreement by visiting the Settlement Website, [www.volarisrefund.com](http://www.volarisrefund.com), or you can write to the address below or call the Toll-Free Settlement Hotline, 1-866-755-1873. Telephone representatives who answer calls made to the toll-free number are not authorized to change the terms of the settlement or this Notice. You can also call Class Counsel with any questions at 1-866-726-1092.

**PLEASE DO NOT CALL THE COURT, THE CLERK OF THE COURT, VOLARIS OR VOLARIS' COUNSEL ABOUT THE SETTLEMENT.**

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