

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

In Re:

NIGERIA CHARTER FLIGHTS CONTRACT
LITIGATION

THIS DOCUMENT RELATES TO:

Anyoku et al v. World Airways, Inc. et al

NOTICE OF SETTLEMENT

Case No: 04-CV-0304 (RJD/MDG)

IF YOU HAD A TICKET THAT YOU BOUGHT BEFORE JANUARY 31, 2004 FOR A FLIGHT ON OR AFTER DECEMBER 28, 2003 FOR TRAVEL IN EITHER DIRECTION BETWEEN THE UNITED STATES AND LAGOS, NIGERIA ON WORLD AIRWAYS, AND WORLD AIRWAYS DID NOT FLY YOU ON ITS AIRCRAFT AS SCHEDULED, YOUR RIGHTS MAY BE AFFECTED BY THE SETTLEMENT OF A CLASS ACTION.

The United States District Court for the Eastern District of New York authorized this Notice. This is NOT a solicitation from a lawyer.

- The settlement resolves a class action lawsuit concerning whether Ritetime Aviation and Travel Services, Inc. and World Airways, Inc. wrongfully failed to transport passengers between Nigeria and the United States on or after December 28, 2003. World Airways, Inc. (“World Airways”), Ritetime Aviation and Travel Services, Inc. (“Ritetime”), Dr. O. Peter Obafemi and Capitol Indemnity Corporation (“Capitol Indemnity”) are the Defendants in this lawsuit.
- The settlement provides for a maximum total fund of \$3,485,000 to be paid to passengers meeting the requirements described in this Notice. If 2,050 or fewer people meet the requirements and file valid claims as described in this Notice, each qualifying passenger will receive \$1,700. If more than 2,050 people meet the requirements and file valid claims, the \$3,485,000 will be split equally among qualifying passengers. For example, if 2,500 people meet the requirements and file valid claims, each person will receive \$1,394. The settlement also provides for payment of Plaintiffs’ attorneys’ fees and expenses.
- Please read this Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:

DO NOTHING

If you do nothing, you will not receive any compensation from this Settlement and you will be unable to sue or continue suing World Airways and Capitol Indemnity.

FILE A CLAIM

If you meet the requirements described in this Notice and file the documents described in this Notice on time, you may be entitled to receive compensation as described in this Notice.

OBJECT

You may write to the Court if you do not like this Settlement.

GO TO A HEARING

You may ask to speak in Court about the fairness of the Settlement.

BE EXCLUDED OR “OPT OUT”

You may opt out of this Settlement. If the Court approves the Settlement and money payments are awarded, you will not get any benefits but will keep your rights to sue World Airways and Capitol Indemnity. But as explained below, you may not be able to recover from Capitol Indemnity once funds contributed by it for the Settlement are exhausted.

- These rights and options — *and the deadlines to exercise them* — are explained in this Notice.
- The Court in charge of this case must decide whether to approve the settlement.

BASIC INFORMATION

1. Why Did I Get This Notice?

You are getting this notice because the parties who have reached an agreement to settle this class action believe that you may be a member of the class. Based upon records obtained in this case, they believe that you or someone in your family may have paid for a ticket to fly on or after December 28, 2003 on a World Airways flight for travel in either direction between Nigeria and the United States, but was not flown because World Airways stopped flying between those two countries on December 28, 2003.

The Court ordered this Notice because you have a right to know that this case has been certified as a class action, that a proposed settlement of a class action lawsuit has been reached and that you have various options, before the Court decides whether to approve the Settlement.

This Notice explains the lawsuit, the Settlement and your legal rights.

The Court in charge of the case is the United States District Court for the Eastern District of New York, and the case is known as *Anyoku et al. v. World Airways, Inc. et al.* The case is pending as case number 04-CV-0304 (RJD/MDG). In addition, other cases involving the same facts (meaning the alleged failure of World Airways and/or Ritetime to fly passengers) have been consolidated by the Panel for Multi-District Litigation for discovery purposes before the United States District Court for the Eastern District of New York. These cases have been consolidated under the case name *In re Nigeria Charter Flights Contract Litigation*, pending as case number 04-md-1613.

If you are a plaintiff in one of the cases consolidated by the Panel for Multi-District Litigation, your rights will be affected by this settlement unless you take action. Like other potential class members, you are entitled to exercise any of the options described in this notice, including filing a claim for compensation or requesting to be excluded.

2. What is This Lawsuit About?

This case was brought as a class action. The Plaintiffs allege that World Airways and Ritetime wrongfully failed to fly the Plaintiffs between Nigeria and the United States. The Plaintiffs have brought claims of breach of contract, negligence, fraud and claims under international conventions regarding air travel. World Airways denies Plaintiffs' allegations, and claims that it is not liable for passenger claims arising out of the cancellation of the flights. World Airways further claims that certain laws and international treaties prevent Plaintiffs from bringing a lawsuit against World Airways.

Plaintiffs have also sued Peter Obafemi and claim that Obafemi is the principal executive and owner of Ritetime and that Ritetime is the alter ego of Obafemi. In addition, Plaintiffs have sued Capitol Indemnity to collect on a Public Charter Operator's Bond issued by Capitol Indemnity, which guaranteed Ritetime's performance of its obligations to passengers. Both Obafemi and Ritetime have defaulted, and as part of the settlement process the Plaintiffs will assign their right to recover damages under the default judgments obtained against Obafemi and Ritetime to World Airways and Capitol Indemnity.

3. Why is This a Class Action?

In a class action, one or more people sue as class representatives on behalf of themselves and other people who have similar claims. In this case, the class representatives are Dr. Obiora Anyoku, Dr. Azuka Anyoku, Faith Adepoju, Uche Ukwuoma and Newman Nkwor. Here, the class representatives are people who purchased tickets to fly on World Airways for travel on or after December 28, 2003 between Nigeria and the United States but were not flown. They are suing on behalf of themselves and other people who also purchased tickets to fly on World Airways for travel on or after December 28, 2003 between Nigeria and the United States, but were not flown for either all or a portion of their ticket.

When a lawsuit proceeds as a class action (as this lawsuit has), the people similarly situated to the class representatives are called a Class or Class Members. The Court resolves the

issues for all Class Members, or in the case of a Settlement, all Settlement Class Members, except for those who have excluded themselves from the Class.

4. Why is There a Settlement?

The Court did not decide in favor of Plaintiffs or Defendants. Instead, World Airways and Capitol Indemnity (the “Settling Defendants”) have agreed with Plaintiffs to avoid the costs and risks of a trial by settling the case. Before agreeing to finalize the Settlement, Plaintiffs’ Counsel carefully weighed the chances of success if the Plaintiffs were to proceed to trial. Plaintiffs’ Counsel have determined that the Settlement amount is a fair and reasonable calculation of the damages suffered by the Class Members. The Settlement will also compensate Plaintiffs’ Counsel for the time and expense they have spent in bringing this action.

5. How Do I Know if I am Part of the Settlement?

You may be entitled to receive compensation under this Settlement if **all** of the following five things are true:

- (1) Before January 31, 2004, you (or someone on your behalf) purchased but did not use all or part of a ticket for a flight between the United States and Nigeria in either direction on World Airways for travel on or after December 28, 2003 as part of the flight program run by Ritetime; **and**
- (2) You did not receive reimbursement from World Airways or Ritetime or any of their employees or agents for the unused portion(s) of your ticket; **and**
- (3) You did not receive a replacement flight paid for by World Airways or Ritetime or any of their employees and/or agents; **and**
- (4) You have not already entered into a binding settlement agreement with Ritetime or World Airways; **and**
- (5) Your claim against Ritetime, Dr. O. Peter Obafemi, Capitol Indemnity or World Airways, with respect to the purchase of a ticket for a flight between the United States and Nigeria in either direction for travel after December 28, 2003 as part of the flight program run by Ritetime, has not been previously decided in another proceeding.

THE SETTLEMENT BENEFITS

6. What Does the Settlement Provide?

To settle the lawsuit, World Airways and Capitol Indemnity have agreed to create a fund of \$5,700,000 (the “Fund”) that will be used as a lump sum settlement amount to pay qualifying Class Members, attorneys’ fees and expenses. Of this amount, Capitol Indemnity has contributed \$200,000, which represents the full penal sum limit of the Public Charter Operator’s

Bond that it issued on behalf of Ritetime. World Airways acknowledges that this lawsuit was the prevailing factor in its decision to enter into the Settlement Agreement.

The Settlement provides for a maximum total payment of \$3,485,000 to be paid to passengers meeting the requirements described in this Notice. If 2,050 or fewer people meet the requirements and file valid claims as described in this Notice, each qualifying passenger will receive \$1,700 and any unpaid funds will revert to World Airways. If more than 2,050 people meet the requirements and file valid claims, the \$3,485,000 will be split equally among qualifying passengers. For example, if 2,500 people meet the requirements and file valid claims, the \$3,485,000 will be divided equally among the 2,500 people, and each person will receive \$1,394. You will not pay attorneys' fees from this distribution.

The Settlement also provides for payment of certain administrative costs of the class action, the reimbursement of the litigation expenses paid by Plaintiffs' Counsel and for payment of Plaintiffs' Counsel's attorneys' fees. Plaintiffs' Counsel intend to apply to the Court for attorneys' fees and costs of \$2,065,000, approximately one third ($\frac{1}{3}$) of the Fund.

The Settlement also covers the claims that the Plaintiffs have asserted against Ritetime and Obafemi. The Court has entered a default judgment against these two defendants. As part of the settlement process, the Settlement Class Members will assign all their rights to recover damages against Ritetime and Obafemi to the Settling Defendants

7. What Does It Mean to Be Part of the Settlement Class?

If you are in the Settlement Class, that means you cannot sue or be part of any other lawsuit, if one is filed, against World Airways and Capitol Indemnity about the legal issues in this case. It also means that all of the Court's orders will apply to you and legally bind you.

In addition, Settlement Class Members will be releasing all of their claims, including "Unknown Claims" as defined below, against World Airways and Capitol Indemnity that Settlement Class Members may have that arise out of or relate to the failure to fly them.

The claims that Settlement Class Members will be releasing include all claims that were asserted or could have been asserted in this lawsuit or in any other action in any other forum, by the Plaintiffs or any Settlement Class Members against World Airways or Capitol Indemnity, to the extent those claims in any way arise out of or relate to the failure to fly passengers between the United States and Nigeria as part of the Ritetime flight program.

"Unknown Claims" includes claims that you do not know of or suspect to exist, which if you knew, might affect your agreement to release World Airways and Capitol Indemnity, or might affect your decision to object to or not object to the Settlement.

If the Settlement is approved by the Court, you shall be deemed to have waived any and all provisions, rights and benefits provided by any law of any state or territory of the United States, or principle of common law, which governs or limits the release of the Unknown Claims.

Because Settlement Class Members will be required to assign their rights to pursue claims against Ritetime and Obafemi, they will be effectively waiving all rights to pursue any

claims they may have against these defendants in any other forum by reason of the failure to fly passengers on or after December 28, 2003 between the United States and Nigeria as part of the Ritetime flight program.

HOW DO I CLAIM MY SHARE OF THE SETTLEMENT?

To receive a share of the \$3,485,000 (the “Fund”), a Settlement Class Member should complete the Claim Form attached to this Notice and submit it together with the following three documents:

- 1) A copy of the passenger ticket for your flight on World Airways; **and**
- 2) The Affidavit attached to the Claim Form signed by you; **and**
- 3) The Release attached to the Claim Form signed by you.

If your Claim Form cannot be read or you fail to include any of the three documents listed above, your claim may be denied and you may receive no money from the Fund. You can also obtain a Claim Form, Affidavit and Release by calling (212) 295-2189 or by downloading these forms from the following website: www.waclassaction.com.

If you meet the requirements described in this notice but no longer have your ticket, you may submit alternative documentation to prove that you have a valid claim. Examples of alternative documentation include credit card bills, a copy of your passport or tourist visa showing entry into the United States or Nigeria at the relevant time or any other documents that tend to show you are a valid claimant. If you submit alternative documentation your claim will be considered, but please note that an airline ticket is considered the best evidence of a valid claim and should be provided if possible.

The Claim Form, a copy of your passenger ticket (or alternative documentation), the Affidavit and the Release must all be mailed together, postmarked no later than _____, to the following address:

LOCKBOX

THE LAWYERS REPRESENTING YOU

8. Do I Have a Lawyer In This Case?

The Court has approved the law firms of Thacher Proffitt & Wood, LLP and Echeruo, Counsel, Attorneys at Law, LLP to represent you and other Settlement Class Members with respect to the Settlement. These lawyers are referred to in this Notice as “Plaintiffs’ Counsel”. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

9. How Will the Lawyers Be Paid?

World Airways and Capitol Indemnity have agreed that if the other conditions of the Settlement are satisfied, World Airways and Capitol Indemnity shall pay a total of \$5,700,000 (the “Fund”). The Fund will be used to pay both Settlement Class Members and to pay Plaintiffs’ Counsel’s fees, expenses and costs. Plaintiffs’ Counsel will ask the Court to approve payment of Plaintiffs’ Counsel’s fees and costs associated with pursuing this lawsuit since January of 2004, in the amount of \$2,065,000. The motion by Plaintiffs’ Counsel for approval of attorneys’ fees will be held the same date, time and location as the hearing on the fairness of the Settlement.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you object to the Settlement.

10. How Do I Tell the Court That I Object to the Settlement?

If you are a Settlement Class Member, you can object to the settlement if you do not like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. If you opt out or exclude yourself from the Settlement, you may not object.

To object, you must send a letter stating that you object to the settlement in *Anyoku et al. v. World Airways, Inc. et al.*, case number 04-CV-0304 (RJD/MDG). Be sure to include your name, address, telephone number, your signature and the time and date of your scheduled World Airways flight. Mail the objection to each of the following places such that it is received no later than _____:

Clerk of the Court
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK
225 Cadman Plaza East
Brooklyn, New York 11201

Thacher Proffitt & Wood LLP
Two World Financial Center
New York, New York 10281
Attn: Jackie Novikov
Fax: (212) 912-7751

Ike O. Echeruo
Echeruo, Counsel, Attorneys at Law, LLP
432 Park Avenue South
4th Floor

New York, NY 10016
Fax: (212) 295-2121

David M. Goldhaber, Esq.
Sedgwick, Detert, Moran & Arnold LLP
One North Wacker Drive, Suite 4200
Chicago, Illinois 60606
Fax: (312) 641-9530

Malcolm L. Bengel, Esq.
Zuckert Scoutt & Rasenberger LLP
888 Seventeenth Street N.W.
Washington, D.C. 20006
Fax: (202) 342-0683

OPTING OUT OF THIS SETTLEMENT

11. Can I “Opt Out” or be Excluded from this Settlement?

Yes, you can “opt out” or choose to be excluded from the Settlement. If you choose to opt out of the Settlement, you must opt out with regard to both World Airways and Capitol Indemnity.

HOWEVER, NOTE: Capitol Indemnity’s maximum liability to all passengers is \$200,000 (the full penal sum limit of its Bond), and that amount will be exhausted by the Settlement. If you choose to opt out of the Settlement, you will therefore be unable to make a claim against Capitol Indemnity’s Bond, or otherwise recover from Capitol Indemnity.

To exclude yourself from the Settlement Class, you must submit a written request for exclusion that includes your name and current address. Each request must also contain a signed statement that: “I/we hereby request that I/we be excluded from the proposed Settlement Class in the In re Nigeria Charter Flight Contract Litigation.” Requests for exclusion must be mailed to:

Ike O. Echeruo
Echeruo, Counsel, Attorneys at Law, LLP
432 Park Avenue South
4th Floor
New York, NY 10016
Fax: (212) 295-2121

With a copy to:

Thacher Proffitt & Wood LLP
Two World Financial Center

New York, New York 10281
Attn: Jackie Novikov
Fax: (212) 912-7751

To be effective, requests for exclusion must be received no later than _____.

**DO NOT REQUEST TO BE EXCLUDED IF YOU WISH
TO RECEIVE COMPENSATION THROUGH THIS SETTLEMENT.**

12. How Does Exclusion or Opting Out Affect my Rights?

If you validly request exclusion from the Settlement Class, you will **not** (a) be entitled to compensation through this Settlement; (b) be bound by any judgment entered in the lawsuit; (c) be entitled to make a claim against Capitol Indemnity's Bond, or otherwise recover from Capitol Indemnity; and (d) be precluded from attempting to bring an individual claim, if timely, against World Airways based on the issues raised in the lawsuit.

If you do not request exclusion from the Settlement Class, you will be bound by all determinations or judgments in the lawsuit in connection with the Settlement entered into or approved by the Court, whether favorable or unfavorable to the Settlement Class, including all orders entered in the lawsuit. If you do not request exclusion from the Settlement Class, you will also not be able to pursue or continue pursuing claims against World Airways that relate in any way to this Settlement.

13. What is the Difference Between Opting Out or Exclusion and Objecting?

Filing an objection simply tells the Court that you do not like something about the Settlement. You can only object if you stay in the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the lawsuit no longer affects you.

THE COURT'S FAIRNESS HEARING

14. When and Where Will the Court Decide Whether to Approve the Settlement?

The Court will hold a hearing to decide whether to approve the Settlement. The Court will hold the fairness hearing at _____ on _____ at the United States District Court for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York, 11201. At this hearing, the Court will consider whether the Settlement is fair, reasonable and adequate. If there are objections, the Court will consider them. The Court will listen to people who have asked to speak at the hearing. The Court may decide these issues at the hearing or take them under consideration. We do not know how long the Court's decision will take. The Court has the right to adjourn or continue the fairness hearing without further notice to you.

15. Do I Have to Come to the Hearing?

No. Plaintiffs' Counsel will answer any questions the Court may have, but you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you submitted your written objection on time, the Court will consider it. You may also apply for your own lawyer to attend, but it is not necessary.

16. May I Speak At the Hearing?

You may ask the Court for permission to speak at the fairness hearing. To do so, you must send a letter saying that it is your intention to appear in *Anyoku et al. v. World Airways, Inc. et al.*, case number 04-CV-0304 (RJD/MDG). Be sure to include your name, address, telephone number and your signature. Your notice of intention to appear must be received no later than _____, by the Clerk of the Court. You must also send a copy to:

Ike O. Echeruo
Echeruo, Counsel, Attorneys at Law, LLP
432 Park Avenue South
4th Floor
New York, NY 10016

GETTING MORE INFORMATION

17. Are There More Details About the Settlement?

This Notice is only a summary of the lawsuit and the proposed settlement. This summary is qualified by, and subject to, the detailed terms of the Settlement Agreement together with its exhibits entered into as of January 22, 2008. You may inspect the pleadings and other papers (including the proposed Settlement Agreement) that have been filed in this lawsuit during business hours at the Office of the Clerk, 225 Cadman Plaza East, Brooklyn, New York, 11201. A copy of the Settlement Agreement is also available online at www.waclassaction.com or can be obtained by writing to Ike Echeruo, Echeruo, Counsel, Attorneys at Law, LLP, 432 Park Avenue South, Fourth Floor, New York, NY 10016.

18. How Do I Get More Information?

You can call Ike Echeruo at (212) 295-2189 or write to Ike Echeruo, Echeruo, Counsel, Attorneys at Law, LLP, 432 Park Avenue South, Fourth Floor, New York, NY 10016.

DO NOT TELEPHONE THE COURT REGARDING THIS NOTICE

Dated:

BY ORDER OF THE COURT
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK