

***Rafales v. M/V EURODAM***  
**United States District Court – Central District Of California**  
C.D. Cal. No. CV 10-4845-AHM (AJWx)

Notice Of Proposed Class Action Settlement And Fairness Hearing

**READ THIS CAREFULLY — YOU MAY BE ENTITLED TO A RECOVERY  
UNDER THIS PROPOSED SETTLEMENT**

***IF SO, YOU MAY HAVE THE RIGHT TO RETURN A CLAIM, AS  
DESCRIBED BELOW***

**This Notice describes a proposed settlement of claims by Filipino seafarers against  
Holland America Line (“HAL”), subject to court approval.**

**SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS:**

**Return Claim  
Form if You  
Are Eligible for  
Refund**

**Receive settlement payment and give up certain rights.**

As part of the Hotel Department Gratuity Plan and Beverage Service Plan in effect from April 1, 2004 through November 30, 2006, HAL employees who received a share of passenger gratuities also reimbursed HAL for certain deployment expenses. In this lawsuit, plaintiff Baltazar Rafales alleges HAL improperly required Filipino seafarers to reimburse HAL for transportation and other deployment expenses in violation of their employment contracts. Rafales sued to recover all reimbursements that HAL collected for transportation and repatriation expenses, as well as penalties under the federal Seaman’s Wage Act, 42 U.S.C. § 10313.

The proposed class settlement of Rafales’s lawsuit includes the right to claim a refund of a portion of travel expenses paid under the Hotel Department Gratuity Plan or Beverage Service Plan by those Filipino crewmembers who did *not* agree to reimburse HAL for transportation and repatriation expenses.

If you did not agree to reimburse HAL for transportation and repatriation expenses, you must complete and return the enclosed Claim Form by no later than **September 29, 2011**, to receive a partial refund of travel expenses paid under the Hotel Department Gratuity Plan or Beverage Service Plan.

You will give up the right to sue HAL concerning all claims that were, or could have been, alleged in the lawsuit described below relating to the payment of wages, including gratuities or service charges, or the reimbursement of deployment costs or other employment-related expenses, prior to the date of the agreement.

**Do nothing**

**Receive no portion of the settlement proceeds and give up certain rights.**

If you do nothing you will not receive any payment, regardless of whether you are eligible for a refund. If the Court approves the settlement, you will be bound by the settlement in its entirety, including its provision releasing certain claims.

**Request  
exclusion from  
the settlement**

**Receive no portion of the settlement proceeds. Retain rights.**

If you wish to be excluded from the class covered by the settlement, you must submit a request for exclusion. You will not be bound by the settlement, even if the Court approves it, and you will not receive any of the settlement money.

**Object** You also have the right to object to the settlement. If the Court approves the settlement despite your objection, you will be bound by the settlement in its entirety, including its provision releasing certain claims.

The remainder of this Notice more fully explains your options. ***The deadline to submit an objection or request exclusion is August 1, 2011.***

### **1. Why did I receive this notice?**

HAL's records show that you worked aboard a Holland America vessel between April 1, 2004 and November 30, 2006, and that you participated in HAL's Hotel Department Gratuity Plan or Beverage Service Plan.

This Notice describes a proposed settlement of claims by Filipino seafarers against HAL and its affiliates. Under the proposed settlement, HAL will refund a portion of travel expenses reimbursed by those Filipino crewmembers who participated in HAL's Gratuity Plan or Beverage Service Charge Plan but did **not** agree to reimburse HAL for transportation and repatriation expenses, and who return claim forms, as described below.

This Notice summarizes the proposed Settlement and your rights under it.

### **2. What is the case about and who does the settlement cover?**

A former HAL employee, Baltazar Rafales, brought this lawsuit. He claims HAL violated the individual employment contracts of Filipino seafarers who worked for HAL between April 1, 2004, and November 30, 2006 ("the Class Period"), by requiring crewmembers in the Hotel Department to reimburse HAL for deployment expenses, including travel costs. Rafales also says that HAL violated the United States Seaman's Wage Act, 46 U.S.C. § 10313, by failing to make sure that all crew members received their full wages at the end of each voyage.

HAL denies these claims. HAL says that it followed its contracts with employees, including its collective bargaining agreement with AMOSUP, the union that represented its Filipino seafarers. In other words, HAL believes it paid its Filipino seafarers exactly what it owed them.

Rafales and HAL have now agreed to settle their disagreements. Before the settlement becomes effective, however, the Court must approve it.

The proposed settlement covers **all** Filipino crewmembers who participated in HAL's Hotel Department Gratuity Plan or Beverage Service Charge Plan in effect between April 1, 2004, and November 30, 2006, and who reimbursed HAL for travel and other deployment expenses. This Notice refers to this group of seafarers as "the Settlement Class."

### **3. What are the terms of the Settlement?**

As part of the proposed class action settlement, HAL will make available a total Settlement Amount of up to \$2,000,000 (Two Million Dollars). This Settlement Amount will be used as follows:

***Travel Expense Claims.*** Most of the Settlement Amount will be used to refund a portion of travel expenses to those members of the Settlement Class who did **not** agree to reimburse HAL for transportation and repatriation expenses.

**To be eligible for a refund of travel expenses, a Filipino seafarer must timely submit a Claim Form, in the form attached, stating that he or she DID NOT agree to reimburse HAL for travel expenses.**

The total amount available for travel expense refunds will depend on how many Filipino seafarers submit claims. The *minimum* amount for each allowed claim will be about \$457.93. The amount payable per claim may increase depending on the amounts the Court awards to Representative Plaintiff and to Plaintiffs' Counsel and/or if fewer than 50% of the eligible Filipino seafarers submit claims. Under some scenarios, depending on the number of claims and the amounts the Court awards to Representative Plaintiffs and Plaintiffs' Counsel, the amount paid per claim could be as high as \$1,000.00. The amount due to any individual claimant will be determined based on a formula in the Settlement Agreement.

***Class Representative Stipends.*** Plaintiffs' counsel will seek awards from the Settlement Amounts to the individual plaintiffs who brought this case. Plaintiffs will ask the Court to award a total of \$15,000 to Plaintiff Baltazar Rafales and two other individual Filipino seafarers who filed similar lawsuits against HAL. These payments will compensate these plaintiffs for the time, effort, and risk they undertook as proposed class representatives in pursuing this suit against HAL.

***Compensation to the Plaintiffs' Lawyers.*** The Court must approve any award of fees to the Plaintiffs' lawyers. If the Court approves the Settlement, Plaintiffs' lawyers will ask the Court for fees of no more than \$500,000 (Five Hundred Thousand Dollars), which would be paid from the Settlement Amount. This is 25% of the Settlement Amount. Although this may seem like a great deal of money, Plaintiffs' counsel have worked on cases seeking recoveries from HAL on behalf of Filipino seafarers for more than two years and have not yet received payment for investigating the facts, handling the litigation, and negotiating the settlement on behalf of the Settlement Class. Further, they have not been reimbursed for their expenses in pursuing the lawsuit. Plaintiffs' counsel have spent time and effort in the prosecution of this lawsuit on a contingent basis and have advanced the expenses of the litigation. In return, their agreements with Rafales and the other individual plaintiffs provide that if they succeed in obtaining a recovery for the Class, they would be paid from that recovery.

In this type of litigation, the lawyers for the plaintiffs usually receive a percentage of the class recovery as attorneys' fees. The Court will ultimately decide what amount of attorneys' fees to award to class counsel and the recovery paid to the named plaintiffs. You will not be personally responsible for any attorneys' fees or costs of this lawsuit unless you retain your own lawyer.

***Class Representative and Class Counsel.*** In a class action, the Court appoints class representatives and class counsel, who have the job of representing the interests of class members.

- (a) The Court has designated Baltazar Rafales, a former HAL employee who participated in the Gratuity Plan, as Class Representative for the Settlement Class for purposes of Settlement approval.
- (b) The Court has appointed Knapp, Petersen & Clarke and the Joseph Farzam Law Firm as Class counsel. These attorneys represent your interests and those of the Settlement Class.

***Reasons for Settlement.*** The Plaintiffs and their lawyers agree that this Settlement represents a substantial recovery, given the risk that the Class might not prevail on some or all of their claims. Further, if HAL and the Plaintiffs had continued to litigate, the lawsuit could have lasted for years until all appeals had been completed. The Settlement avoids the costs and risks of continued litigation, including the danger of no recovery, and provides a considerable benefit to the Settlement Class now, without further delay.

#### **4. What are my options?**

***Do I need to do anything to remain a member of the Class?***

If you fit within the description of the Settlement Class above, you will remain a member of the Class, ***unless*** you take steps to exclude yourself, described below. You also may appear by your own attorney, at

your own expense. *In other words, if you do nothing, you will remain a member of the Class.*

***How does the claim process for travel expense refunds work?***

If you participated in the Hotel Department Gratuity Plan or Beverage Service Plan but did not agree to make reimbursement payments to HAL for transportation and repatriation expenses, you should return the enclosed “Proof of Claim” form seeking a refund of a portion of those expenses. To be eligible for this refund, you must return the claim form to the address indicated by no later than **September 29, 2011**. In the alternative, if you are working on board a HAL vessel, you may return your claim form to the Human Resources Manager (formerly, the crew purser).

***How do I exclude myself from the Settlement Class and from this Settlement?***

If you do not want to be part of the Settlement Class or receive benefits from the Settlement, you must take steps to exclude yourself. To exclude yourself from the Settlement Class and the Settlement, you must sign and return an exclusion request to Holland America Line, Rafales Litigation Opt Outs, 300 Elliott Avenue West Seattle, WA 98119 USA. The exclusion request must include the following statement: “I want to opt out of the action concerning HAL’s Hotel Department Gratuity Plan or Beverage Service Plan.” If you opt out (1) you will not receive any payment from this proposed settlement; (2) you will not be bound by any further orders or judgments entered for or against the Class; and (3) you will not be entitled to comment on or object to the proposed settlement. This is the only option that allows you to participate in another lawsuit against HAL relating to the claims being released in this case.

The exclusion request must be postmarked no later than **August 1, 2011**. The Settlement, if approved, will bind all class members who do not request exclusion by this date.

***How do I tell the Court what I think about the Settlement?***

Unless you exclude yourself from the Settlement Class, you can comment in support of or in opposition to the Settlement, Class Counsel’s application for fees and expenses, or the request for stipends for the Class Representatives. You must submit any objections or comments in writing. You must send the original of your objections or comments to the Clerk of the Court and send copies to Class Counsel at the following addresses, so that your objections or comments are postmarked no later than **August 1, 2011**:

Clerk of the Court  
United States District Court  
Central District of California – Western Division  
312 North Spring Street  
Los Angeles, CA 90012

Class Counsel:  
Andre Jardini  
Knapp, Petersen & Clarke  
550 N. Brand Boulevard, Suite 1500  
Glendale, CA 91203-1922

Your objections or comments (a) must include a reference at the beginning to the *Rafales Litigation*, case number 10-4845 AHM; (b) must list your name, address, and telephone number; (c) must be signed by you; and (d) must state your position and the reasons for your position. You must include copies of any documents you want the Court to consider. If you do not present your views in writing in compliance with this procedure and deadline, your views will not be considered, and you will waive any objections.

As described below, the Court will hold a hearing to decide whether to approve the settlement. If you submit objections or comments and wish to appear and speak at the hearing, your objections or comments must include a statement that you intend to appear and speak at the fairness hearing, set forth the position you intend to present at the hearing, and include copies of any documents you want the Court to consider.

If you want your own lawyer to appear and speak at the hearing on your behalf, you must also state in your written objections or comments that you intend to have your lawyer appear and speak for you, and list the name, address, and telephone number of your lawyer.

***How will the Court decide whether to approve the Settlement?***

The Court has scheduled a hearing on **August 29, 2011**, before the Honorable A. Howard Matz, United States District Judge, at the Courthouse for the United States District Court for the Central District of California, at 10:00 a.m. at 312 North Spring Street, Los Angeles, California, 90012, at Courtroom 14, to consider whether to grant final approval of the Settlement. The Court may reschedule the Fairness Hearing for good cause without further notice.

Any Settlement Class member may appear at the Settlement approval hearing to argue that the Court should not approve the proposed Settlement or to oppose the applications for attorneys' fees and expenses and class representative fees. If you wish to be heard at the hearing, however, you must make your objection in writing in accordance with the previous paragraph.

**YOU ARE NOT REQUIRED TO ATTEND THE HEARING UNLESS YOU PLAN TO OBJECT TO THE SETTLEMENT AND WANT YOUR OBJECTION TO BE CONSIDERED IN PERSON.** If you exclude yourself from the Settlement Class, you are not entitled to comment on or object to the Settlement or the fee request, or be heard at the Hearing—only Filipino seafarers who remain in the Settlement Class have the right to object.

***What will happen if the Court approves the Settlement?***

If the Court approves the Settlement, payments to claimants who submit timely and proper claims will be made after approval becomes final. HAL plans to handle payments on board for crew members serving on HAL vessels or through its manning agent in the Philippines, United Philippines Lines, Inc. ("UPL").

If someone appeals approval of the Settlement, payment will be delayed.

If the Court approves the Settlement, the Settlement will bind all members of the Settlement Class, except those who exclude themselves. Further, all Settlement Class members' claims that were, or could have been, alleged in the lawsuit described above relating to (a) payment of wages, including gratuities or service charges, prior to the date of the agreement or (b) the reimbursement of deployment costs or other employment-related expenses prior to the date of the agreement, will be dismissed, released, and forever barred as a result of the Settlement. The Class Representative, i.e., Raffles, is giving an even broader release to Holland America Line in exchange for the stipend described above.

***What will happen if the Court does not approve this Settlement?***

If the Court does not approve the Settlement, the case will proceed as if no settlement had been attempted. HAL would retain the right to contest whether this case should be maintained as a class action, to contest the merits of the claims being asserted by Raffles, or to request an order requiring Raffles to arbitrate his claims in the Philippines. If the Settlement is not approved, there can be no assurance that the Class will recover more than is provided in the Settlement, or indeed, anything at all.

**5. Will I be subject to discipline based on whether I submit a claim?**

No. Your decision as to whether or not to submit a Claim Form will in no way affect your employment with Holland America Line. Holland America Line is prohibited from retaliating in any way based on your decision whether or not to participate in the settlement.

## **6. Where can I get additional information?**

The foregoing only summarizes the Action and the proposed Settlement. If you want more information, such as copies of the Complaint, the Settlement Agreement, or the papers filed in support of the proposed Settlement, you may contact Class Counsel at:

Joseph Farzam, Esq.  
Law Offices of Joseph Farzam  
1875 Century Park East, Suite 1345  
Los Angeles, CA 90067  
USA

You may email Class Counsel at [farzam@lawyer.com](mailto:farzam@lawyer.com) or call toll free (888) 999-9394. You may also reach counsel's office at (310) 226-6890 should you have any questions. Mr. Farzam will report to the Court and counsel for HAL concerning his contacts with Class members, including the status of any efforts to resolve questions posed by Class members.

You have the right to review the papers on file in the lawsuit, which may be inspected during regular business hours at the Clerk's Office or through the Public Access to Court Electronic Records ("PACER") system, which you can access at <http://www.pacer.gov/>. You also may seek the advice of your own attorney, at your expense, if you so desire.

**PLEASE DO NOT CONTACT THE COURT FOR INFORMATION.**