

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 21-cv-60462-BLOOM/Valle

CCUR AVIATION FINANCE, LLC and
CCUR HOLDINGS, INC.,

Plaintiffs,

v.

SOUTH AVIATION, INC. and
FEDERICO A. MACHADO,

Defendants.

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**LEGAL NOTICE OF
CLAIMS ADMINISTRATION PROCESS**

IF YOU ARE A CURRENT CREDITOR OF SOUTH AVIATION, INC. (“SOUTH AVIATION”) AND/OR ITS RESPECTIVE AFFILIATES, SUBSIDIARIES, SUCCESSORS AND ASSIGNS (COLLECTIVELY, THE “RECEIVERSHIP ESTATES”)¹, YOU MAY BE ENTITLED TO PARTICIPATE IN MONETARY RECOVERY FROM THE ASSETS RECOVERED IN THIS ACTION.

SUBMISSION OF ALL CREDITOR CLAIMS TO THE TEMPORARY RECEIVER, AS DEFINED HEREIN, REQUESTED BY: **January 27, 2022.**

¹ For the avoidance of doubt, the term “Receivership Estates” excludes Defendant Federico A. Machado individually.

INTRODUCTION

On April 16, 2021, the United States District Court for the Southern District of Florida (the “Court”) entered the *Order on Plaintiffs’ Verified Amended Expedited Motion for Appointment of Temporary Receiver* (ECF 43) (the “Appointment Order”), in the above-captioned action, appointing Barbara Martinez, Esq., as the Temporary Receiver (the “Temporary Receiver”) over Defendant South Aviation, Inc. (“South Aviation”), and its respective affiliates, subsidiaries, successors, and assigns (excluding Defendant Machado individually) (collectively, the “Receivership Estates”). The Appointment Order, among other things, empowered the Temporary Receiver to marshal all assets of the Receivership Estates, including locating, taking custody, possession and control of, safeguard, and liquidate all such assets, and ensure fair and equitable repayment of creditors of South Aviation.

On December 3, 2021, the Temporary Receiver filed with the Court a *Motion to Approve Noticing and Claims Administration Process* (ECF 145). On December 6, 2021, the Court entered the *Order Approving the Noticing and Claims Administration Process* (ECF 148) (the “Claims Procedure Order”), pursuant to which the “Eligible Claimants” (defined below) shall file the Proof of Claim Form attached hereto for recovery of such Eligible Claimant’s allowed claim against the Receivership Estates. Upon collection, review, and allowance of timely and properly submitted Proofs of Claim, the Temporary Receiver intends to file a motion with the Court seeking (i) approval of a plan of distribution (the “Distribution Plan”), (ii) authority to create a settlement fund (the “South Aviation Fund”), and (iii) authority to distribute the proceeds of the South Aviation Fund in accordance with such Distribution Plan, after payment of administrative expenses of the Receivership Estates, to holders of claims deemed to be an “Allowed Claim” (defined below) by the Temporary Receiver.

LEGAL NOTICE

If you are a creditor of the Receivership Estates, you may be an Eligible Claimant entitled to file a Proof of Claim, and you may have an Allowed Claim. Accordingly, you may be entitled to a distribution from the South Aviation Fund. If you are an Eligible Claimant, you must fill out and return the Proof of Claim Form enclosed herein to the Temporary Receiver in accordance with the instructions below **ON OR BEFORE January 27, 2022**.

Who is an Eligible Claimant?

Creditors are eligible to participate in the Claims Process, and are encouraged to submit a claim, if the Receivership Estates incurred a debt to them that remains unpaid in whole or in part. Such Creditors are “Eligible Claimants” in this Claims Process.

What is Required to Establish Existence of an Allowed Claim?

The claim of an Investor or Creditor will be allowed (an “Allowed Claim”), such that the Creditor will be entitled to receive a distribution based on the amount that Receivership Estates still owe to the Creditor, provided that the Creditor sufficiently demonstrates to the satisfaction of the Temporary Receiver through documentation and/or sworn statements, among other things:

- (i) that the Receivership Estates incurred a debt to such Creditor, and such debt remains unpaid in whole or in part;

AND

- (ii) that such Creditor is not: (a) Defendant Federico A. Machado, or a member of his family, including without limitation a spouse, child, parent, sibling or parent or sibling of Defendant Machado’s spouse, or any entity directly or indirectly controlled by them or a trust established for their benefit; (b) a person who was employed by or contracted to the Receivership Estates or Defendant Machado at any time; or (c) a person or entity affiliated with, or under common control with, the Receivership Estates;

AND

- (iii) that the total amount of funds that such Creditor paid to or on behalf of the Receivership Estates exceeds the total amount of funds that the Receivership Estates or their affiliates transferred back to such Creditor, or that the total value of the goods or services that the Creditor provided to the Receivership Estates exceeds the total amount that the Receivership Estates paid to such Creditor for those goods and services.

The Temporary Receiver may consider other factors in determining whether a claim is an Allowed Claim.²

² Notwithstanding these factors for determining whether a claim should be allowed, the Temporary Receiver will analyze each claim individually, the circumstances surrounding each Creditor’s payment to and involvement with the Receivership Estates and each Creditor’s dealings and relationship with Defendants, and the Temporary Receiver reserves the right to object to and seek to disallow any claim.

If a Creditor cannot prove all three of the foregoing factors, that Creditor's claim will be disallowed and such Creditor will receive no monetary distribution on account of such alleged claim.³

If a Creditor makes the requisite showing regarding his/her/its claim and the Temporary Receiver determines that such claim is an Allowed Claim, then and only then, will the Creditor be entitled to a recovery from the Receivership Estates. The Temporary Receiver will propose a method for monetary distribution on account of Allowed Claims for approval by the Court after sufficient assets have been recovered and/or liquidated to warrant a distribution.

How Does an Eligible Claimant Submit a Claim?

To submit a claim and participate in the Claims Process and Distribution Plan, you must fill out and submit the Proof of Claim Form, attached to this Legal Notice and available: (1) on the Court's Electronic Case Filing System, which can be accessed from the Court's website at <https://ecf.flsd.uscourts.gov> (a PACER login and a password are required to retrieve a document); (2) upon email request to the Temporary Receiver's counsel addressed to: SouthAviationReceivership@hklaw.com (subject line: Request for Claims Package); and (3) on the receivership website, accessible at: <https://www.hklaw.com/en/general-pages/receiverships-and-class-actions/south-aviation-inc-receivership>.

The Proof of Claim Form requests information required to participate in the Claims Process and to receive a distribution from the South Aviation Fund if you are determined to have an Allowed Claim. You will be required to submit all requested supporting documentation with your Proof of Claim Form. Claims that lack requested supporting documentation will not be considered. For technical support in completing the Proof of Claim Form, please contact the Temporary Receiver by email to SouthAviationReceivership@hklaw.com (please include subject line: "Technical Support for Claims Process").

All Proof of Claim Forms must be returned to the Temporary Receiver **ON OR BEFORE January 27, 2022** by email, together with all supporting documentation to SouthAviationReceivership@hklaw.com. **Please include subject line: [Name of Claimant] Proof of Claim Submission.**

³ To the extent a Creditor received funds from the Receivership Estates or another entity on behalf of the Receivership Estates (including from Machado) on account of and in excess of the Receivership Estates' total debt to such Creditor, such that the Creditor profited from the fraud, the Temporary Receiver reserves the right to pursue a claim against such Creditor for the return of the profit received and any other appropriate relief.

TIMELINE FOR CLAIMS PROCESS

December 16, 2021	Notice of Claims Process sent out by Temporary Receiver
January 27, 2022	Date by Which Submission of Claims is Requested

Upon conclusion of the claims submission process, the Temporary Receiver will update the Court and all claimants regarding a proposed timeline for the adjudication of claims, which will include a post-adjudication process to request reconsideration of the Temporary Receiver’s determination of the allowance or disallowance, in whole or in part, of any particular Proof of Claim, as well as a process to appeal the Temporary Receiver’s final determination to the Court.