

Rail Passengers Cleared to Make £93m Legal Claim for 'Boundary Fares'

London, 19th October 2021: London's specialist competition court, the Competition Appeal Tribunal (the "Tribunal") has given the green light to rail passengers to seek compensation for overcharging by the Southeastern and South Western rail franchises by not making 'boundary fares' sufficiently available to consumers. In a judgment delivered today, the Tribunal has ordered that the claims, issued on behalf of millions of rail passengers, can now proceed to trial. The standalone claim was the first of its kind to be filed in the UK and is estimated to be worth around £93m in damages for rail users.

In its judgment, which can be accessed [here](#), the Tribunal said "*we authorise the Applicant to act as the class representative in both these proceedings; and we find that the claims in each action raise common issues and are suitable to be brought in collective proceedings.*"

The Tribunal has authorised the claims to continue as collective proceedings meaning that millions of passengers who have paid twice for part of their journey on Southeastern and South Western routes because they were not sold a boundary fare, will now automatically be represented at court, unless they choose to leave – or opt out – of the claim. The Tribunal confirmed that Mr Justin Gutmann, formerly of Citizens Advice, will act as the Class Representative.

The claim was launched in the UK's specialist competition court on 27 February 2019 by Mr Gutmann. The application for a Collective Proceedings Application Order was heard remotely between 9 – 12 March 2021, leading to today's decision.

The Class Representative, Mr Gutmann said: "*This is a great step forward in my legal campaign to achieve justice for millions of rail passengers who have been overpaying as a result of the train operating companies not offering 'boundary fares'. It means that we can now hold Southeastern and South Western to account by going to court. "*

He added: "*I am grateful to everyone involved Charles Lyndon Ltd, Hausfeld & Co LLP, Philip Moser QC, Stefan Kuppen, Alexandra Littlewood of Monckton Chambers, Woodsford and AlixPartners for their hard work and dedication to the claims and look forward to the next milestone in the Boundary Fares campaign for justice.*"

What is the claim about? What are boundary fares?

Southeastern and South Western are alleged to have not made 'boundary fares' sufficiently available for Travelcard holders to purchase, nor making passengers aware of their existence. Boundary fares allow passengers who own a TfL travelcard to travel beyond the zones covered by their travelcard without doubling up on payment. Instead, the rail companies' failures have left customers with little option but to buy a higher fare than they would have needed to because their travelcard already entitled them to travel for part of their journey. Many passengers have effectively paid twice to travel sections of their journeys.

Independent research has shown that boundary fares are not readily available through online platforms or over the telephone from South Western or Southeastern and are rarely offered at ticket counters unless expressly requested by passengers. This imposition of an unfair price for fares is an abuse of the companies' dominant position and in breach of UK competition laws.

Mr Gutmann has been successful at first instance with the Tribunal certifying Mr Gutmann's claims against the rail companies. Southeastern and South Western continue to refuse to compensate passengers who have been overcharged, and the claims will now proceed to trial for the Tribunal to assess liability and damages.

Comments from the legal team and funder:

Rodger Burnett, Director of Charles Lyndon, said: *"This is an important victory for rail passengers and citizens' rights more generally. Charles Lyndon is delighted to have represented Mr Gutmann in these claims and is pleased the Tribunal recognises the position that Charles Lyndon have long held: that dominant companies have duties to make pricing transparent, especially when dealing with consumers. We look forward to preparing for the next stage of the claims with Mr Gutmann."*

Anthony Maton, Managing Partner at Hausfeld & Co LLP said: *"Millions of train passengers, often commuting daily on South Western and South Eastern, can now claim for the double charging that saw them pay twice for many journeys – once through their travel cards and once through their ticket journeys. Today the court agreed to allow the claims to proceed so that rail passengers are a step closer to obtaining restitution from the rail franchises for these long running malpractices."*

Woodsford's Chief Investment Officer, Charlie Morris, said: *"This is an important milestone in the promotion of collective redress in this country, which allows consumers and small businesses to achieve compensation for the wrongs committed by big business. With Woodsford's support,*

Mr. Gutmann is now much closer to obtaining compensation for the many thousands of consumers who have been overcharged by train operators and we look forward to continuing to help those consumers achieve access to justice."

What next?

Class members who live in the UK will be automatically included in the claim without having to take any steps, although they can choose to opt-out by sending confirmation of this to the following email address: info@charleslyndon.com or by post to: Charles Lyndon Ltd, 22 Eastcheap, London, EC3M 1EU.

Affected passengers who do not live in the UK will also be eligible to join the claim but must proactively opt-in to participate. If you are not domiciled in the UK and you wish to opt-in to join the claim, you must do so by sending confirmation of this to the following email address: info@charleslyndon.com or by post to: Charles Lyndon Ltd, 22 Eastcheap, London, EC3M 1EU.

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Justin Gutmann is also available for interview, please contact: media@boundaryfares.com.

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Notes to Editors

Justin Gutmann represents the passengers bringing this legal case against Southeastern and South Western. He is aiming to ensure that the train companies have to pay back the money which they earned from passengers paying twice for part of their journeys. This is estimated to be in the region of £93 million.

Mr Gutmann has a wealth of experience working in the consumer rights sphere and he has strong expertise in the transport sector. He has spent a large part of his professional life dedicated to consumer welfare, public policy and market research.

Mr Gutmann's final job prior to retirement was as Head of Research and Insight at Citizens Advice.

Mr Gutmann also spent eight years working for London Underground as a Market Planning Manager.

Mr Gutmann is represented by Charles Lyndon and Hausfeld & Co LLP.

Mr Gutmann is funded in his claim by Woodsford, a global ESG and litigation funding specialist.