

SUPREME JUDICIAL COURT OF MASSACHUSETTS

Casavant v. Norwegian Cruise Line Ltd.

460 Mass. 500 (2011) · Decided September 1, 2011

SUMMARY

The Massachusetts Supreme Judicial Court held that Norwegian Cruise Line violated Massachusetts travel-service regulations by failing to disclose its complete refund policy and by failing to issue a timely refund after the plaintiffs cancelled their cruise. The court concluded that these violations constituted unfair or deceptive acts under G. L. c. 93A and caused the plaintiffs a compensable loss. The court also held that the plaintiffs' demand letter adequately described their claim and remanded for determination of damages, attorney's fees, and costs.

CASE DETAILS

COURT	Supreme Judicial Court of Massachusetts
WRITING FOR THE COURT	Cordy, J.
JURISDICTION	Massachusetts
DECIDED	September 1, 2011
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The plaintiffs appealed from a Superior Court judgment awarding them a refund on their contract claim but rejecting their claim under G. L. c. 93A. The Appeals Court reversed the judgment for Norwegian on the c. 93A claim, and the Supreme Judicial Court granted Norwegian's application for further appellate review.
STANDARD OF REVIEW	The court reviews findings of fact for clear error and conclusions of law de novo. Whether conduct violates G. L. c. 93A is a legal determination.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Mark Casavant, Tara Casavant v. Norwegian Cruise Line Ltd.

TOPICS

consumer protection deceptive trade practices administrative law appellate procedure remedies

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Norwegian's failure to disclose its complete cancellation or refund policy violated 940 Code Mass. Regs. § 15.04(2)(e) and constituted an unfair or deceptive act or practice under G. L. c. 93A.
2. Whether the regulatory violations caused the Casavants a compensable loss under G. L. c. 93A.
3. Whether the Casavants' demand letter satisfied G. L. c. 93A, § 9(3), even though it did not identify the specific Attorney General regulation later relied upon.

HOLDINGS

1. Norwegian violated 940 Code Mass. Regs. § 15.04 by failing to disclose the complete terms of its refund policy before accepting payment and by failing to refund the Casavants' payments within thirty days after their cancellation.
2. The regulatory violations caused the Casavants a loss within the meaning of G. L. c. 93A because Norwegian's failure to provide the required prompt refund deprived them of the ticket price.
3. The Casavants' demand letter satisfied G. L. c. 93A, § 9(3), because it fairly notified Norwegian of the conduct complained of, the injury suffered, and the relief sought; it was not required to identify every specific statutory or regulatory violation.

KEY QUOTATIONS

"We review a judge's findings of fact under the clearly erroneous standard and his conclusions of law de novo." (503)

"The evidence at trial plainly established that Norwegian violated the Attorney General's travel service regulations in two respects: first, it failed to disclose the refund policy; and second, having violated the disclosure requirement, it failed to refund the payments made by a cancelling customer within thirty days." (504)

"The demand letter required under G. L. c. 93A does not require claimants to set forth every specific statutory or regulatory violation alleged, so long as it fairly notifies the prospective respondent of the actions or practices of the respondent and the injury suffered by those actions." (505-506)

FACTUAL BACKGROUND

The Casavants purchased a cruise scheduled to depart Boston on September 16, 2001, paying a total of \$2,135.50. After the September 11 terrorist attacks, they contacted Norwegian seeking to reschedule; Norwegian refused, treated the matter as a cancellation, and denied a refund. Norwegian had an undisclosed policy providing a full refund when a passenger cancelled because of an objection to a provision in the contract of passage, and it did not refund the Casavants within thirty days after their cancellation.

PROCEDURAL HISTORY

A Superior Court judge initially dismissed the complaint based on a forum-selection clause, but the Appeals Court reversed and remanded for trial. At trial, Norwegian agreed to refund the ticket price; the Superior Court entered judgment for the plaintiffs on the contract claim but found no unfair or deceptive act and no causally related loss under c. 93A. The Appeals Court reversed on the c. 93A claim, concluding that Norwegian's failure to disclose its complete refund policy was unfair and caused loss. The Supreme Judicial Court reversed the judgment for Norwegian on different reasoning and remanded for entry of judgment for the plaintiffs and determination of damages, attorney's fees, and costs.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the judgment for Norwegian on the c. 93A claim, enter judgment for the Casavants, and determine their c. 93A damages, reasonable attorney's fees, and costs.

CASES CITED

- *Anastos v. Sable*, 443 Mass. 146, 149 (2004)
- *R.W. Granger & Sons v. J & S Insulation, Inc.*, 435 Mass. 66, 73 (2001)
- *Schwanbeck v. Federal-Mogul Corp.*, 31 Mass. App. Ct. 390, 414 (1991), S.C., 412 Mass. 703 (1992)
- *Hershenow v. Enterprise Rent-A-Car Co. of Boston, Inc.*, 445 Mass. 790, 796, 802 (2006)
- *Iannacchino v. Ford Motor Co.*, 451 Mass. 623, 630-631 n.12 (2008)
- *International Fidelity Insurance Co. v. Wilson*, 387 Mass. 841, 850 (1983)
- *Purity Supreme, Inc. v. Attorney Gen.*, 380 Mass. 762, 775 (1980)
- *Slaney v. Westwood Auto, Inc.*, 366 Mass. 688, 704 (1975)
- *Spring v. Geriatric Authority of Holyoke*, 394 Mass. 274, 288 (1985)
- *York v. Sullivan*, 369 Mass. 157, 162-163 (1975)
- *Clegg v. Butler*, 424 Mass. 413, 423 (1997)
- *Cohen v. Liberty Mutual Insurance Co.*, 41 Mass. App. Ct. 748, 756 (1996)
- *Entrialgo v. Twin City Dodge, Inc.*, 368 Mass. 812, 813 (1975)
- *Casavant v. Norwegian Cruise Line, Ltd.*, 63 Mass. App. Ct. 785 (2005)
- *Casavant v. Norwegian Cruise Line, Ltd.*, 76 Mass. App. Ct. 73, 73-74, 77-78 (2009)

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