

Litigation to Continue in Miami as Spartan Race Stumbles in Class Action Over Insurance Fee

Since the judge denied the change-of-venue request and Spartan Race's most recent motion to stay all discovery, an attorney for the plaintiff said, "Now we will depose all of the executives."

By Michael A. Mora | June 01, 2020



Adam Moskowitz, The Moskowitz Law Firm. Photo: J. Albert Diaz/ALM

The organizers of the Spartan Race just ran into another legal obstacle.

U.S. District Court Judge Beth Bloom in Miami denied a motion by Spartan Race Inc. to both have a class action dismissed and venue transferred to a court in Massachusetts. Bloom also allowed depositions to proceed.

The case is a financial and public relations problem for Spartan Race as it competes with other competitors in the growing field of obstacle races. The complaint included an allegation that Spartan Race has taken millions of dollars from consumers in violation of Florida and common law for its "racer insurance fee," and that Spartan Race "pockets nearly all."

Florida native Aaron Fruitstone is the lead plaintiff in the case. He is among hundreds of thousands of athletes in the state and across the country that have competed in a Spartan Race. To participate, athletes had to pay a \$14 insurance fee, “which Spartan Race secretly pocketed,” alleged plaintiffs counsel Adam Moskowitz, who’s handling the Florida litigation.

“We sued them for fraud, and we expanded it recently to nationwide because we are using the Massachusetts consumer statute where they’re based,” Moskowitz said.

Since Bloom denied the change-of-venue request and Spartan Race’s most recent motion to stay all discovery, Moskowitz is looking toward the next move.

“Now we will depose all of the executives,” he said.

Scott Bassman, a partner at Cole, Scott & Kissane in Fort Lauderdale who represents Spartan Race in this case, did not immediately respond to a request for comment.

Spartan Race has athletic events that take place across the globe in different terrains and various distances at each chosen venue. These competitions often involve running long distances while navigating challenging obstacles. For instance, an upcoming race in Mulberry, Florida, advertises a “21K Beast and 5K spring weekend (<https://www.spartan.com/en/race/detail/6431/overview>)” which is a half marathon that has 30 obstacles “engineered to push you out of your comfort zone and right up to your limits.” Prices for that event start at \$129.99.

The lawsuit claimed that the required insurance coverage is “secondary” and the company forced its “insurance scheme” upon the racers. Since the insurance is secondary, the athlete would be required to first utilize its own health insurance coverage with all the difficulty that ensues when seeking coverage for a medical expense. Following exhaustion of the athlete’s primary coverage, Spartan Race’s medical coverage could be utilized after satisfying a \$500 deductible.

“That’s a big deal because a lot of these companies charge you these insurance charges, which is just a pass-through,” Moskowitz said. “They don’t offer the insurance, they just keep a secret kickback, which they really are not allowed to because they are not an insurance company.”

In its reply to plaintiff’s response to the motion to transfer venue, Spartan Race said the athletes participating in its races agreed to a binding contract. In that contract, the registration payment total included a “mandatory administrative and racer insurance fee.”

Spartan Race’s website includes a FAQ section, in which it claimed to have purchased “accident medical insurance coverage from a licensed third-party insurance carrier,” which was secondary coverage to the racers’ primary medical coverage and was subject to the \$500 deductible. The webpage does not say how much Spartan Race paid for the third-party medical insurance coverage.

Spartan Race claimed it did not make any “misrepresentation or misstatement as to how the \$14 fee is calculated or allocated.” Because of this assertion, Spartan Race insisted that a participating athlete could not reasonably expect that the racer insurance fee would only be distributed to the “third-party insurance carrier,” rather than being retained by Spartan Race itself.