

Carnival Says Travel Insurance Row Must Be Arbitrated

By [Joyce Hanson](#)

Law360 (September 26, 2018, 8:15 PM EDT) -- [Carnival Corp.](#) has urged a Florida federal court to force a proposed class of consumers who say they paid a concealed kickback to the cruise operator when they bought travel insurance policies through the company to arbitrate the dispute, arguing its ticket contracts contain an arbitration clause.

The travel insurance buyers including lead plaintiff James Wolfe agreed to the ticket contract whether they booked by phone or online, and mandatory arbitration is required within a key contract clause, Carnival said in its motion to compel arbitration. Every ticket includes an “important notice to guests” alerting them that disputes must be resolved exclusively by binding arbitration pursuant to the [United Nations Convention](#) on the Recognition and Enforcement of Foreign Arbitral Awards, the cruise operator asserted.

“Arbitration agreements involving interstate commerce, such as the agreement here, are governed by the Federal Arbitration Act, which embodies a liberal federal policy favoring arbitration agreements,” Carnival said, citing a 2016 Eleventh Circuit decision in [Bazemore v. Jefferson Capital Systems LLC](#), among other decisions.

Wolfe along with five other named plaintiffs filed their complaint on Aug. 24, alleging Carnival reaped concealed kickbacks via the sale of travel insurance policies and deceptively marketed the scheme that unfairly passed on the cost of inflated premiums to consumers.

The complaint alleged that insurance regulators have already inked multistate settlement agreements over undisclosed kickback schemes that Transamerica Casualty Insurance Co. and [Nationwide Mutual Insurance Co.](#) ran with distribution participants including Carnival as well as Norwegian Cruise Lines, both based in Miami.

[Adam Moskowitz](#), a lawyer for the plaintiffs, told Law360 on Monday that plaintiffs have filed three separate proposed class action complaints related to travel insurance programs. They filed [the first case last month](#) against Carnival and have since filed complaints against Norwegian Cruise Lines, [on Sept. 21](#), and also [Royal Caribbean](#), Moskowitz said.

On Wednesday, Moskowitz wrote in an email that the plaintiffs previously reviewed Carnival's motion for arbitration, saying, “We researched this specific issue prior to filing our cases and feel confident that we will provide the court with sufficient proof that arbitration is not required under our facts.”

The suit against Carnival says the company engaged in “unfair and deceptive practices on a nationwide basis” via its aggressive online marketing and sales of travel insurance policies in its Vacation Protection Package.

Unbeknownst to the plaintiffs, the suit says, Carnival received an “undisclosed kickback” from Transamerica, Nationwide or the insurers’ agent, “in the form of [a] concealed commission” for every policy sold. The costs associated with the kickbacks were then “passed on to the consumer in the form of inflated premiums” for the travel insurance, the complaint alleges.

Carnival sold travel policies issued by Transamerica as part of its VPP prior to Dec. 1, when it switched to Nationwide as its travel insurance provider, according to the putative class action complaint. The named plaintiffs allege that Carnival created a “massive hidden profit center” by overcharging passengers for the VPPs, knowing it would receive a kickback from the travel insurer for each transaction.

The plaintiffs are seeking to certify a nationwide class of consumers who purchased travel policies as part of Carnival’s VPP bundle, as well as subclasses of Florida and New Jersey consumers. They are asking for injunctive relief, damages, attorneys’ fees, and pre- and post-judgment interest.

Counsel for Wolfe and Carnival did not immediately respond Wednesday to requests for comment.

Wolfe is represented by [Adam Moskowitz](#), [Howard M. Bushman](#) and [Joseph M. Kaye](#) of [The Moskowitz Law Firm PLLC](#), [Andrew S. Friedman](#) and [Francis J. Balint Jr.](#) of [Bonnett Fairbourn Friedman & Balint PC](#), [Kimberly Lambert Adams](#) of [Levin Papantonio Thomas Mitchell Rafferty Proctor PA](#), and [William F. “Chip” Merlin Jr.](#) of [Merlin Law Group](#).

Carnival is represented by [Stuart H. Singer](#) of [Boies Schiller Flexner LLP](#).

The case is [James Wolfe et al. v. Carnival Corp.](#), case number [1:18-cv-23463](#), in the U.S. District Court for the Southern District of Florida.

--Additional reporting by [Jeff Sistrunk](#). Editing by [Orlando Lorenzo](#).