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Travel Cos. Ink \$26M Deal To End Trip Insurance Suit

By **Mike Curley**

Law360 (November 4, 2020, 3:10 PM EST) -- A proposed class of travelers is asking a Florida federal court to approve a \$26 million settlement to resolve claims that Delta Air Lines Inc., JetBlue Airways Corp. and other travel companies hid that they were getting paid when consumers bought travel insurance.

In a motion filed Tuesday, the class, led by named plaintiff Bonnie Foshee, said the fund would go toward reimbursing class members for up to 15% of their trip insurance payments and that the settlement includes an injunction making the travel companies disclose they receive compensation when customers buy travel insurance.

The fund is nonreversionary and will also cover attorney fees, incentive awards and other administrative costs, according to the motion. Leftover funds will go first toward class members, who could receive up to 100% of their trip insurance payments, and any left over after that will go cy pres to the Make-A-Wish Foundation, according to the motion.

The proposed class filed a consolidated complaint in October, bringing together under Foshee's suit claims in nine separate separate suits against Delta, JetBlue, American Airlines Inc., United Airlines Inc., Alaska Airlines Inc. and Amtrak, all of which will be dropped as part of the settlement and the release of claims.

The suits allege that each of the companies induced customers to buy travel insurance through AGA Service Co. without disclosing that the airlines and Amtrak receive compensation as part of the deal. Some of the suits also allege that the travel companies illegally sold their data to AGA. AGA is not named in the consolidated complaint and is not party to the settlement.

The suit comes after years of litigation starting in 2016, the class told the court, saying it is a good result for class members, considering the companies were granted motions for dismissal and summary judgment in some of the nine suits.

The travel companies announced that they had **hammered out a framework** for the settlement in March. **A 10th suit** is affected by, but not part of, the settlement, as it includes claims involving a separate travel insurance carrier.

The travelers asked the court to approve a settlement class consisting of all U.S. residents who bought a travel policy from AGA as part of its business arrangement with the defendants, with class notice going out through the same email addresses AGA received from class members when they bought their policies.

Class counsel will ask for attorney fees of up to 26% of the settlement fund, or about \$6.76 million, and a maximum of \$700,000 in litigation expenses.

Class representatives will ask for incentive awards based on their participation in the case, with plaintiffs who sat for deposition asking for \$7,500 each; plaintiffs who did not sit asking for \$5,000; and those plaintiffs first named in the consolidated complaint asking for \$1,000.

An attorney for the proposed class declined to comment. A spokesperson for Delta also declined to comment.

Representatives for the other travel companies could not immediately be reached for comment

Wednesday.

The proposed class is represented by attorneys from Robbins Geller Rudman & Dowd LLP; Leon Cosgrove LLP; Levi & Korsinsky LLP; Taus Cebulash & Landau LLP; Kantrowitz Goldhamer & Graifman PC; The Moskowitz Law Firm; Korein Tillery LLP; Bonnet Fairbourn Friedman & Balint PC; Wites Law Firm; Glancy Prongay & Murray LLP; and Gustafson Gluek PLLC.

Delta was represented as of March by Lazaro Fernandez Jr. of Stack Fernandez & Harris PA, David L. Balseer and Julia C. Barrett of King & Spalding LLP and Gayle I. Jenkins of Winston & Strawn LLP.

Counsel information for the other companies was not available.

The case is Foshee et al. v. Delta Air Lines Inc. et al., case number 4:19-cv-00612, in the U.S. District Court for the Northern District of Florida.

--Additional reporting by Carolina Bolado and Celeste Bott. Editing by Abbie Sarfo.

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