

JURY VERDICTS

MONDAY, May 8, 2006

OVERTIME PAY SETTLEMENT TO COST CARNIVAL \$6.25 MILLION

Case: Roxana Maria Borcea, Cipran Ciuraru, Tihomir Danchev, Atul Kanade, et al. vs. Carnival Corp. d.b.a. Carnival Cruise Lines

Case no.: 05-22968, U.S. District Court, Miami

Description: Maritime law, overtime law, class action

Filing date: Nov. 16, 2005

Judge: Marcia Cooke

Plaintiff attorneys: Tucker Ronzetti of Kozyak Tropin & Throckmorton, Coral Gables; Julio J. Ayala, Crewmember Advocacy Center, Miami; Craig T. Downs, Downs Brill Whitehead & Sage, Miami

Defense attorney: Marty Steinberg, Hunton & Williams, Miami

Details: The plaintiff attorneys previously had represented crew members against Miami-based Carnival Cruise Lines in personal injury cases, and had heard of the hours the crew worked. At the end of 2004, they looked into the amount of time that the crew members were working versus how much they were being paid, and found that the workers were not being fully compensated. The investigation included non-tip earners such as plumbers, cleaners, masons and carpenters, as well as tip earners such as bartenders and food servers.

The lawyers' investigation led to the allegations that formed the basis of two class action suits on behalf of Carnival crew members. The plaintiffs filed separate suits, one for tip earners and one for non-tip earners. The suits alleged that Carnival was engaging in a variety of tactics to circumvent paying their employees overtime.

Plaintiffs' case: The plaintiffs contended that Carnival was denying workers overtime pay for work weeks as long as



Craig T. Downs, Julio J. Ayala and Tucker Ronzetti: Crew members worked as long as 70 hours per week without overtime pay.

70 hours by requiring them to sign out, then continue working, and assigning them duties in addition to their primary jobs. Since the cruise ships flew under international flags, the case alleged violations under Panamanian law and Bahamian law, which are not as employee-friendly as U.S. law.

As the suits progressed, one was dismissed by the trial court. That decision was appealed by the plaintiffs. The other was stalled, pending the appellate court's decision.

Defense case: Steinberg referred calls to Carnival, which declined to comment on the case. According to the plaintiff attorneys, Carnival denied the allegations and claimed that the company was not in violation of Bahamian or Panamanian overtime pay law. In addi-

tion, the cruise line argued that its employees received pay receipts, which established that they were paid in full.

Outcome: On May 2, Carnival and the plaintiffs submitted a settlement agreement to Judge Cooke, which if approved, would allot \$6.25 million to 39,500 people who worked for Carnival from November 2001 to the present. Carnival did not admit wrongdoing in the settlement, but agreed to establish an arbitration process for pay disputes.

Comments: "This case was a case that was dismissed by the court, yet Carnival agreed to settle on terms that will benefit the class," Ayala said. "The settlement conferred the benefit upon the class we represented adequately."

Ronzetti said "this was a truly challenging case." ♦