



A spate of lawsuits could help travelers battling airlines and cruise lines. Here's what you need to know.

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The global pandemic has upended the travel industry, with airlines canceling thousands of flights and, until recently, cruise lines confining passengers to their cabins as the coronavirus swept through their vessels. Many travelers have resolved their issues with the companies, receiving refunds or other compensation. But others have not and are turning to the law for help. Since March, a number of law firms have filed class-action lawsuits against the airlines and individual lawsuits against the cruise lines. To better understand this course of action, we spoke to several legal experts, including a handful of attorneys pursuing the cases and Brian Fitzpatrick, a law professor at Vanderbilt University in Nashville and author of the new book, "The Conservative Case for Class Actions." Here is what travelers should know about the lawsuits and why they might one day find a check for the cost of their canceled flight in the mailbox.

Q: What are some of the cases involving the travel industry?

A: Tycko & Zavareei, a law firm based in Washington, D.C., has filed a class-action lawsuit against Spirit Airlines, Southwest and Frontier. Hagens Berman Sobol Shapiro in Seattle is pursuing a class-action lawsuit against United, Delta and American. Chalik & Chalik, a personal injury law firm in Fort Lauderdale, Fla., is representing 75 passengers who had sailed aboard one of three Princess Cruises ships ravaged by the outbreak: Grand Princess, Ruby Princess and Coral Princess. Watts Guerra of San Antonio is also suing Princess, which is owned by Carnival Corp. Norwegian Cruise Line, Costa Cruises and Holland America are also facing litigation; the latter two companies are members of the Carnival family.

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Q: What wrongdoings are the lawsuits claiming?

A: For the cases involving the airlines, the lawyers say the carriers have violated the law by not providing passengers refunds for canceled or substantially altered flights that the traveler finds unacceptable. Denying refund requests and limiting passengers to vouchers or credits for future travel breaches the companies' contracts of carriage. "The class-actions filed against United, Delta and American accuse the airlines of knowingly withholding and intentionally denying refunds to their customers," said Steve Berman, co-founder and managing partner at Hagens Berman. The Transportation Department recently stepped into the fray to clarify the federal law covering refunds. In short, it applies to coronavirus-related cancellations.

The lawsuits involving the cruise lines are more personal and specific, because the lawyers are representing individuals instead of a group of aggrieved travelers. Jason Chalik, a founding partner of Chalik & Chalik, said his clients' claims range from emotional distress and negligence to loss of civil liberties. Chalik said the first lawsuit he and his wife, Debi Chalik, filed was for his in-laws, who were cruising on the Grand Princess when the virus hit. The Chaliks' clients also include passengers who tested positive for the coronavirus as well as families who had a loved one die from the virus. "They put profits over passengers," Chalik said.

Q: What is a class-action lawsuit?

A: A class-action lawsuit involves a group of people who share a common injustice or injury — in this case, the airlines' refusal to issue refunds. If the law firm wins, or the company settles, all participants earn a monetary award. There is no fee to join a class-action lawsuit; the lawyers take a percentage of the winnings.

Q: Why are the lawyers pursuing a class-action lawsuit against the airlines but not the cruise lines?

A: Per an arbitration clause, cruise lines are exempt from class-action suits, as are several other travel industry companies, such as Priceline and Expedia, according to Hassan Zavareei, partner at Tycko & Zavareei. Airlines do not have the same protections: Federal and international law bars carriers from using arbitration agreements.

Q: How does a class-action lawsuit work?

A: One person, called a lead plaintiff or class representative, will sue a company on behalf of others with the same complaint. In addition to the money won in the settlement, this individual will receive a service award, which can range from \$1,000 to \$10,000. “It’s a thank you for doing all of this extra work,” Fitzpatrick said. “They represent the millions of people, which multiplies the damages.”

The lead plaintiffs’ stories will ring familiar to other travelers. In the Southwest case, the carrier canceled the passenger’s flight from Baltimore to Havana last month and provided a voucher refund option. The American passenger had purchased a ticket from Las Vegas to Lima, Peru. The airline canceled the return flight and refused to refund his \$1,052 ticket. “People should be able to get the entire amount back. That’s what they’re owed,” Zavareei said. “It’s a galling breach of contract.”

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Before the lawyers reach out to affected travelers, the court must certify the case as a class-action, either by settlement or class-certification proceedings. The current cases are in the early stages of the multistep process. “There’s nothing you need to do right now,” Zavareei said. “If it moves ahead, you’re in it. In the movies, it’s a lot more dramatic.”

Q: Who can join a class-action lawsuit against the airlines, and what is required of participants?

A: Basically anyone who has been denied a refund for a canceled or drastically changed flight during the pandemic. (Travelers who choose to cancel a trip do not qualify for a refund.) Once the case is certified, the lawyers will ask the airlines to identify passengers who fall into this group. The airlines may confidentially share personal details, such as name, street and email address, and fare data. The attorneys will contact individuals to inform them of their rights and offer them the choice of automatically staying in the lawsuit or declining to participate. “Customers who wish to be directly involved in the cases against airlines can opt to become class representatives in the class-action cases,” Berman said. “This means their particular situation is explained in the case, and they stand as a proxy to protect others similarly affected.” Beyond this, no additional action is required — no compiling documents or filing paperwork. One caveat: Participants in a class-action lawsuit cannot independently sue the airline for the same transgression. This is your one shot at recovering the cost of your plane ticket.

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Q: How long does the process take?

A: A while — many months if not years. “Don’t wait at the edge of your seat,” Fitzpatrick said. By the time the check comes, “you probably will have forgotten about it.” However, the law professor said the airlines might want to resolve the issue quickly, to restore their image and regain travelers’ trust before the skies open up again. Berman added, “We intend to ask the courts to require United, Delta and American to act quickly to resolve this issue, given the immediate financial hardships faced by so many Americans right now.”

Q: How much money could a traveler win?

A: It depends on the settlement. You could recover the total cost of your ticket or a percentage of the amount, such as half, according to Fitzpatrick.

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Q: How have the airlines responded to the lawsuits?

A: Southwest said in a statement, “Southwest will review this complaint and will defend our policies accordingly as our focus is always on taking care of our customers, especially during these unprecedented times.” United and Frontier said they could not comment on specific litigation. American did not directly address the lawsuit but said in a statement, “As has always been our policy, if American cancels a flight for any reason, a customer can receive a full refund back to their original form of payment.” Delta and Spirit did not respond to requests for comment.

Q: Where can people find more information about the progress of the lawsuits?

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A: The law firms may post updates on their websites. You can also check the public records in the courts where the lawyers filed their cases. For example, Hagens Berman filed their lawsuits against the three airlines in U.S. District Court for the Northern District of Illinois Eastern Division, Northern District of Georgia Atlanta Division and Northern District of Texas Fort Worth Division.

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