

## Mass. court rules for American skycaps on tips

By DENISE LAVOIE (AP)

BOSTON — Massachusetts' highest court ruled in favor Tuesday of a group of American Airlines skycaps who won more than \$325,000 in a lawsuit over tips they claimed they lost after the airline began charging passengers a \$2 curbside baggage fee.

The state Supreme Judicial Court found that instructions a federal judge gave to a jury that awarded the skycaps the money last year were correct. The federal judge who presided over the case had asked the state court for a review after he thought he might have erred when instructing the jury on what constitutes a service charge under a state law that protects wages and tips.

The federal jury awarded the money last year to nine current and former Logan International Airport skycaps.

American started charging the fee in 2005 for customers who chose to check their luggage at the curb instead of the ticket counter. The charge did not include a tip for the skycaps who handled the curbside check-in.

The skycaps sued, arguing that the \$2 fee cut deeply into their tips and violated the Massachusetts Wage Act, which protects wages and tips for service workers. The skycaps argued that many passengers did not understand that the fee was going to the airline and its subcontractor and was not a tip for them.

In its ruling, the state court makes it clear that any service charge is the "functional equivalent" of a tip or gratuity and should be given to the employees providing the service.

"The Legislature's intent ... can be plainly discerned from its language and history — to ensure that service employees receive the tips, gratuities, and service charges that customers intend them to receive," the court said in its ruling.

Eight of the nine skycaps were employees of G2 Secure Staff, an American Airlines subcontractor.

The court rejected American Airlines' argument that the law did not apply to the airline because the skycaps were employed by a subcontractor.

"To allow such an 'end run' around the Act would contravene the express purpose of the Act, namely to protect gratuity payments given to, or intended for, service employees such as skycaps ... " the court wrote in its ruling.

Shannon Liss-Riordan, an attorney for the skycaps, said she was gratified by the ruling.

"The Massachusetts Supreme Judicial Court has affirmed the broad protection that the Massachusetts tips law provides to tipped employees," she said.

Liss-Riordan said the ruling was based on Massachusetts law and is not expected to affect similar lawsuits filed in other states.

American Airlines said it is considering "all of its legal options."

"We're disappointed with the ruling, but appreciate the time and attention that the Massachusetts Supreme Judicial Court paid to this unique issue of Massachusetts law," said spokeswoman Andrea Huguely.

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