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SJC upholds skycaps' win in baggage fee lawsuit

Ruling affirms protection of state tip law

By Martin Finucane, Globe Staff | August 5, 2009

The state's highest court handed a legal victory yesterday to skycaps who said a \$2 per bag baggage fee imposed for several years by American Airlines was depriving them of tips.

Nine current and former skycaps were awarded \$325,056 earlier this year by a jury in federal court.

But a federal judge had second thoughts about whether the state law protecting service employees' tips applied to eight of the skycaps who were employed by an American contractor, G2 Secure Staff LLC.

Yesterday, the Supreme Judicial Court, answering a question from the federal judge, said American, which split the \$2 fee with G2, could not avoid liability because the skycaps worked for a contractor.

"Here, we do not think that the Legislature intended to permit restaurants and airlines to avoid the mandates of the statute by outsourcing the services of waitstaff and service employees. . . . 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 high court said.

"This was a strong decision affirming the broad protections the Massachusetts tip law provides for tipped employees in this state," said Shannon Liss-Riordan, attorney for the skycaps. "It's a good day for the skycaps," she added.



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

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

The skycaps also sued G2, and those claims are in arbitration, Liss-Riordan said.

The baggage fee was rolled out by American Airlines in 2005 and 2006 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 argued that many passengers did not understand the fee was going to the airline and its subcontractor and was not a tip for them.

American dropped the fee earlier this year in a partial settlement of the skycaps' suit, Liss-Riordan said.

Liss-Riordan said she is still pushing for class action certification so that hundreds of other skycaps can get money back.

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.

Material from the Associated Press was used in this report. ■