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Stull Bids For Lead In Carnival Investor Suit Over Virus

By **Carolina Bolado**

Law360 (September 23, 2020, 3:34 PM EDT) -- Stull Stull & Brody put in a bid Tuesday to be lead counsel in consolidated proposed investor class suits alleging that Carnival Corp. hid COVID-19 infections on its ships, causing investor losses later when the truth was revealed.

Investor Abraham Atachbarian, who initially fought consolidation of his proposed class action with similar suits, reversed course and asked a Florida federal court to add his suit to the consolidated action. He also asked to be made a lead plaintiff of a subclass of option investors and to appoint his attorneys at Stull Stull & Brody as lead counsel for that subclass.

Atachbarian had agreed to transfer his case to U.S. District Judge K. Michael Moore, who is already presiding over the consolidated action, but fought consolidating his suit because he feared a lack of representation for options purchasers and put sellers. The other suit is brought only on behalf of investors in Carnival stock.

The presumptive lead plaintiff in the consolidated suit, the New England Funds, has not come forward with a proposal to protect options purchasers and put sellers and argued that they do not need separate representation, according to Atachbarian's motion.

But Atachbarian says these investors need their own representative to bring their claims.

"Notably, the Elmensdorp complaint, filed by one of counsel representing the New England Funds and seeking lead counsel appointment, asserted claims only on behalf of common share purchasers, explicitly eliminating from the action options purchasers and put sellers," he said.

The investors allege that Carnival hid that its medics were reporting increased COVID-19 cases on its ships. Other allegations include that Carnival was violating port-of-call regulations by hiding the number and severity of infections on its ships, and it didn't follow its own health and safety protocols.

By continuing to operate, Carnival ships were responsible for spreading COVID-19 at various ports around the world, investors allege. As a result, Carnival's positive statements about its business were misleading, causing its stock prices to drop when the truth was revealed in news articles.

The suits seek to hold Carnival, CEO Arnold Donald and Chief Financial Officer David Bernstein liable for the drops.

They allege that on April 16, a news article said company executives may have failed to protect passengers from the virus and "continued to operate new cruise departures despite its knowledge that the threat posed by COVID-19 had materialized on its ships and was likely to proliferate further."

The news came while Carnival still had two cruise ships at sea, and its share price dropped $0.53 that day, according to the lawsuits.

On May 1, another article said the virus spread on cruise ships despite early warning signs to Carnival and its affiliated cruise lines. The article further revealed that the government was looking into Carnival's response to the pandemic, according to the suits.

Investors claim Carnival's stock price dropped $1.97 that day to $13.93 per share.

Atachbarian estimates that he lost more than $91,000 with his sales of put options and purchases of call options on Carnival shares.

Attorneys for the parties did not respond to requests for comment on Wednesday.

Atachbarian is represented by Howard T. Longman of Stull Stull & Brody, Joshua H. Eggnatz of Eggnatz Pascucci PA and Lynda J. Grant of The Grant Law Firm PLLC.

Carnival and its executives are represented by Daniel S. Sinnreich, Richard A. Rosen and Theodore V. Wells Jr. of Paul Weiss Rifkind Wharton & Garrison LLP and Erin K. Kolmansberger and Mark F. Raymond of Nelson Mullins Broad & Cassel.

The cases are In re: Carnival Corp. Securities Litigation, case number 1:20-cv-22202, and Atachbarian v. Carnival Corp. et al., case number 20-cv-23011, both in the U.S. District Court for the Southern District of Florida.

--Editing by JoVona Taylor.
