Lawsuit filed against Carnival for agreeing to discriminatory Cuba cruise policy

A class-action lawsuit alleges that Carnival Corp. is violating civil rights

Cuban law prohibits Cuban-born individuals from traveling to Cuba by sea

Lawsuit alleges that Carnival Corp. adopted policy to ‘support’ Cuba’s boycott of Cuban-born individuals
Carnival Corporation’s upcoming voyage to Cuba has struck a nerve among part of Miami’s Cuban-American population, inciting a federal lawsuit, protests and criticism from Miami-Dade Mayor Carlos Gimenez.

The cruise company’s social-impact line, Fathom, is scheduled to travel to the island beginning May 1 after Carnival Corp. became the first American cruise company to gain approval from the Cuban government to sail from the U.S. to Cuba.

But there’s a catch: Cuban-born Americans cannot visit the island by sea because of a Cuban law that dates to the Cold War era, and therefore are barred from joining in Carnival Corp.’s sailings to the island. Individuals born in Cuba can, however, travel to the island on an airplane.

A class-action lawsuit filed against Carnival Corp. and Fathom alleges that the cruise company is violating civil rights by denying tickets to Cuban-born individuals.

According to the lawsuit, filed in federal court in Miami on Tuesday, plaintiffs Amparo Sanchez and Francisco Marty were denied a ticket on Fathom’s May 1 sailing when they revealed they were born in Cuba.

Similar to airlines, cruise lines are required to collect passport information, including place of birth, for all cruises leaving from the U.S.

A Fathom representative told Sanchez and Marty, who is a Carnival Platinum Club member, that Carnival Corp. has been “working on the issue for months” and did not want to lose the loyalty of its customers, according to the lawsuit. However, the cruise line told them it had to abide by the Cuban policy and could not complete their bookings on the Cuba sailings.

“I was born in Cuba and haven’t been back in 58 years … and [am] unable to fly for health reasons. I wanted to go back to see my native country and share its culture with a surprise trip with my children, but Carnival will not allow my Cuban-born daughter and me to go on
its ship,” Marty said in a statement.

“IT’S SOMETHING VERY UN-AMERICAN FOR A COUNTRY TO TELL CITIZENS THAT BECAUSE YOU ARE OF THIS NATIONALITY, THEY CAN’T SELL YOU A TICKET.
Ramon Saul Sanchez, president of the Democracy Movement.

Fathom is scheduled to take passengers on week-long voyages to Havana, Cienfuegos and Santiago de Cuba.

The lawsuit alleges that the cruise line and its parent company, Carnival Corp., have “adopted a policy to support Cuba’s boycott” of Cuban-born individuals.

“It violates our fundamental rights as a nation,” said Tucker Ronzetti, of Coral Gables law firm Kozyak, Tropin and Throckmorton, one of the plaintiff’s attorneys. “When it comes to our fundamental values as a nation, when it comes to following our laws against discrimination, those trump a foreign nation’s policies.”

On Fathom’s website, the cruise line says it is “Carnival’s policy to obey the regulations and laws of the countries we sail to around the world.”

Carnival Corp. president and CEO Arnold Donald said in an interview Tuesday that the cruise company has been working to petition the Cuban government to change the policy.

“Cuban-born individuals are allowed to fly to Cuba, and we just want a similar process,” Donald said. “We expressed that respectfully and appropriately [to Cuban authorities].”

But some Cuban-born politicians don’t think Carnival’s attempts have been sufficient.

On Wednesday, Miami-Dade Mayor Carlos Gimenez called a press conference to raise the possibility of a court fight between the world’s largest cruise company and the county that owns the port where Carnival plans to launch its first cruises to Havana.

Gimenez said the policy violates the county’s human-rights policy. He has also asked county lawyers to determine whether Carnival Corp. is in violation of a local law that bans discrimination based on national origin.
“As a Cuban-born, naturalized American citizen myself, it is clear to me that this policy violates the Code,” Gimenez wrote in a memo titled “Inquiry Regarding Possible Human Rights Violation the Code of Miami-Dade County.”

Gimenez stopped short of saying he would block Carnival from using PortMiami for its upcoming Cuba cruise but said he wanted to know what authority he has to enforce the human-rights law.

“What can we do about it so that they come into compliance?” he said. “This is not about one particular cruise. This is really about Carnival. They’re an important partner, and there are a lot of jobs here in Miami-Dade County. But they’re still violating the ordinance.”

Carnival is one of the county’s five largest private employers, according to the Beacon Council, the county’s economic development agency, with about 3,000 local jobs.

Gimenez said he spoke with Micky Arison, Carnival’s chairman and owner of the Miami Heat, earlier in the day about the cruises. Gimenez said Arison hopes Cuba will agree to waive the rules, allowing the company to avoid a stand-off with Miami-Dade.

Hialeah Mayor Carlos Hernandez also spoke out in support of Gimenez’s inquiry.

Insiders note that the Castro regime is sensitive to being seen as bending to political pressure from Miami, complicating the matter as the controversy gets more attention from elected leaders and the media.

Among them is U.S. Senator Bob Menendez, who is of Cuban descent. In a statement, he spoke out against Carnival Corp.’s decision.

“I never could have fathomed an American company could be so blinded by the prospect of profit in Cuba that it would enter into a business deal with the Castros that tramples on the civil rights of our own American citizens,” said Menendez, who represents New Jersey.
“Make no mistake — by discriminating against Cuban-Americans, Carnival is allowing the Castro regime to extend its oppressive reach to our shores.”

Central to the matter is the issue of upholding U.S. civil rights law by a U.S.-based entity that uses a U.S. facility, such as a port, no matter where it sails in the world.

The federal lawsuit filed against Carnival Corp. says the cruise company’s acceptance of the Cuban policy violates the Civil Rights Act of 1964, which prohibits discrimination in places of accommodation. According to the law, a place of accommodation can be defined as an “establishment which provides lodging to transient guests,” including cruise ships.

Robert W. Rodriguez, another attorney for the plaintiff, cites a similar instance in 2015, when an Israeli citizen filed a discrimination complaint against Kuwait Airways after the airline refused to sell the traveler a ticket from New York’s John K. Kennedy International Airport to London’s Heathrow Airport. The airline cited Kuwaiti law that prohibits business with Israeli citizens.

The U.S. Department of Transportation threatened legal action against Kuwait Airways, asking it to cease the discriminatory practice. In response, the airline eliminated service between the two airports.

“This has already been decided and Carnival knows about this,” Rodriguez said. “We are just hoping that [Carnival Corp.] has the wherewithal to know that No. 1, it is legally incorrect, and also more importantly, morally incorrect.”

WE BELIEVE THERE IS A MUCH BETTER OPPORTUNITY TO EFFECT A CHANGE IN THE POLICY BY HAVING AN ACTIVE DIALOGUE WITH THE CUBANS VERSUS SOME OF THE POLICIES IN THE PAST MANY YEARS.
Roger Frizzell, Carnival Corp. spokesman

Carnival spokesman Roger Frizzell said the lawsuit is “without merit or substance.”

“We believe there is a much better opportunity to effect a change in the policy by having an active dialogue with the Cubans versus some of the policies in the past many years,” Frizzell said.
Miami-Dade Commissioner Rebeca Sosa has also requested that Gimenez’s administration confer with the U.S. Department of Transportation over the legality of PortMiami allowing Carnival Corp. to use its facilities while adhering to the Cuban policy.

In a statement, Sosa also cited the Kuwait Airways incident, noting that “although the cruise line maintains that it must honor the communist island’s discriminatory practices, a recent decision by the U.S. DOT seems to contradict the policy.”

The Cuban-born commissioner added Wednesday: “If you don’t have the ability as a U.S. citizen to go wherever you want, then I have a problem with that — because the United States is a democracy.”

Protests and the ensuing political uproar followed an April 7 column by Miami Herald columnist Fabiola Santiago about her inability to book a berth on a Fathom Cuba cruise because she was born in Cuba.

Tuesday, protesters demonstrated in front of Carnival Corp.’s Doral headquarters, decrying the cruise company’s policy.

Ramon Saul Sanchez, president of the Democracy Movement, which organized the protest, said Carnival should take a stand against Cuba’s policy — or not sail to Cuba.

“It’s something very un-American for a country to tell citizens that because you are of this nationality, they can’t sell you a ticket,” Sanchez said Tuesday.
Demonstrators protest at Carnival Corp. against discriminatory Cuban cruise policy

Carl Juste - cjuste@miamiherald.com

MIAMI HERALD WRITERS DAVID OVALLE AND FABIOLA SANTIAGO CONTRIBUTED TO THIS REPORT.

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**Greg Hamilton** · Miami, Florida
Carnival has to decide, they can't have their cake and eat it. Now they get to defend their defenseless posture in a court of law.

Reply · 4 · Apr 13, 2016 12:15pm

**Brian Haus** · Miami, Florida
What about my rights as a US Citizen being infringed by the embargo on travel to Cuba for the last 50 years? Then only Cubans can go. End the embargo and all travel restrictions and I might be sympathetic to their issue.

Reply · 6 · Apr 13, 2016 1:08pm

**Marc X. Gomez** · University of Miami
If you feel or felt infringed for the "last 50 years", might I suggest that if you'd taken the initiative and done what the plaintiffs in this lawsuit are doing, you'd get/have gotten an answer to your question? (Alternatively, you might just want to read the existing case law re: travel and the Cuban embargo and save some money.) In any event, surely your feeling "infringed" doesn't justify the infringement of the rights of others, does it?

Reply · 2 · Apr 13, 2016 2:20pm · Edited

**Greg Hamilton** · Miami, Florida
Write to your congressman.

Reply · 1 · Apr 13, 2016 2:35pm

**Greg Howell** · Bartender at Self-Employed
When the U.S. government takes your house and strings your family members up to a pole and kills them for their political beliefs, then you can complain. Till then, shut up. Your ignorance is astounding.

Reply · 2 · Apr 13, 2016 5:04pm

Show 1 more reply in this thread

**Thomas Chamberlin**
There's an awful lotta Cuban-American lawyers in Miami, lol
Watch Micky Arison fold like a cheap card table

Reply · 3 · Apr 13, 2016 1:18pm

Rudy Gump · Consultant at Consulting Detective

Sure, Carnival always breaks laws for a few loud complainers without a legal argument.

Reply · 22 hrs

Lynn McConnell

I frankly am bewildered why any tourist wants to visit Cuba.

Reply · 5 · Apr 13, 2016 1:35pm

Greg Hamilton · Miami, Florida

Point well taken, more unbelievable are all the companies wanting to do business with the oppressive regime. There are many companies still eating crow for doing business with Hitler's Germany. They profited from the agony of the oppressed, this is not different. Carnival and many others will have blood diamonds in their accounts.

Reply · 4 · Apr 13, 2016 2:43pm

Joanne Kuder

Greg Hamilton America does business with repressive regimes around the globe. Cuba should be no different. America would be better served to get it's own house in order. Costa Rica has closed it's doors to the Cuban wave and said, "no more"! As to my comment to put a moratorium on all immigration sir, I believe that would also include Haiti, Brazil, Columbia, and any other country without regard for race or color of skin. African Americans did not immigrate here. They were forced here. It was called slavery, remember? It only lasted until the 1960s if you want to be accurate and include Convict leasing, Sharecropping, and involuntary servitude. The Jewish Holocaust was absolutely abhorrent but it in no way minimizes the treatment of African Americans over 400 plus years and 9-11 million deaths. An African American grievance far and away trumps anything Castro has done to the Cuban people since 1959.

Reply · Apr 13, 2016 3:32pm

Oscar Gonzalez · Owner/Principal at Media Relations Group, LLC

Joanne - Are you comparing mass murders/genocide? Mine was bigger than yours! Ha! Ha! You are a complete moron!

Reply · 4 · Apr 13, 2016 4:38pm

Show 2 more replies in this thread

Joanne Kuder

These immigrants, expatriates, or Cuban Americans-----so concerned about how Cuba runs it's country and how Cuba enforces it's laws-----GO HOME TO CUBA TO EFFECT CHANGE----take your fight to the island. As a citizen born here and not of Cuban descent. We don't care about your island politics. Sick of it! Whine, whine, whine. This is about business, plain and simple! if you
were so concerned maybe you should have stayed in Cuba and fought the good fight. America has allowed too many immigrants from all countries of origin to come here in the first place. I call for a moratorium on all immigration to these United States.

Reply · 4 · Apr 13, 2016 1:50pm

Plutarco Luis Cuero · Seminario San Carlos y San Ambrosio
Take a pill for your sickness and get well ...

Reply · 4 · Apr 13, 2016 1:58pm

Greg Hamilton · Miami, Florida
Well if you want to take that posture then you would tell African Americans to go back to Africa if they don't like it here.

Reply · 2 · Apr 13, 2016 2:37pm

Plutarco Luis Cuero · Seminario San Carlos y San Ambrosio
Irish, Greeks, Italians, Germans ... all came here as immigrants 3rd and 4th generations already forgetting that once they were also immigrants ...

Reply · 2 · Apr 13, 2016 2:58pm · Edited

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Gonzalo Sanabria · Coral Gables, Florida
Without a doubt Carnival's "rush-for-gold" in setting up a Havana cruise has ultimate priority over allowing Cuban-Americans as passengers since they knew they could fill their ships no matter what..... BUT.... the flaw here is that now Miami Dade County Officials are allowing Carnival to use Mismi's Ports as an unwilling accomplice .... As Commsr Sosa and Mayor Gimenez have said; this may constitute a contractual breach by Carnival where their Havana-bound ships would have to set sail from other ports than Miami.....and I would fully support this until their policy of barring Cuban Americans is reversed.... I wouldn't even allow the first ship to use our County's Ports

Reply · 3 · Apr 13, 2016 3:13pm

Curt Bender · University of Miami
Most of those protesters never had any intention of traveling to Cuba by cruiseship or any other way. Why would they or anyone else pay those ripoff prices charged by Carnival. The exiles are trying to start trouble anyway the can but guess what? Nobody is paying attention to them anymore.

Reply · 2 · Apr 13, 2016 3:36pm

Gabino Cuevas
The US Constitution doesn't distinguish a class of citizenship based upon when you were born. Where was Arison's concern with developing business with Tunisia when his cruise line cut them off when they refused to allow Jews to disembark in Tunis? Is it because Arison is a Jew? Maybe he should walk in the shoes of a cuban-american, especially since his corporate headquarters are in Miami.
Greg Hansmen · University of Georgia

Bender....What if the Regime said...No Blacks!!

Bet your last dollar, Carnival would not ne sailing to Cuba.

This is just one more example of why everyone person amd business needs to stay the Fok out of Cuba.

Curt Bender · University of Miami

Greg Hansmen that's why everyone should stay the Fok out of lisrening to you!

Steven Mueller · Owner at Executive Subrogation Services, Inc.

It's always the same people protesting over and over and over. They can fly to and from Cuba all they want but that's just not good enough. You could turn the Castro brothers into stone and pave the Cuban streets in gold and they'd still have a prolem.

Joanne Kuder

Absolutely! if they have so much problem with the policy--take their butts to Cuba and fix it! or get on their make shift floats and sail there anyways. All they do is complain about Fidel while living good here in America. Go on back! I promise we will not miss you.

Ivan Vargas Acosta · City College Fort Lauderdale

this is for Mr. Steven Mueller and Joanne Kuder (The cat lady). We are talking about American citizens, regardless the country of origin. They plege and sworn to defend and protect this country. Joanne Kuder, you wrote an essay about slavery "African Americans did not immigrate here. They were forced here. It was called slavery, remember? It only lasted until the 1960s if you want to be accurate and include Convict leasing, Sharecropping, and involuntary servitude. The Jewish Holocaust was absolutely abhorrent but it in no way minimizes the treatment of African Americans over 400 plus years ...

Joanne Kuder

Ivan Vargas Acosta look!
The Cubans are here running from Fidel and communism seeking economic opportunities. Some may have been here born but many Descendants of those Cuban born...
opportunities. Sure many have been born here but many parents of these Cuban born got special status and continued to invade our shores. It's only a 90 mile journey to their Mother's and Father's homeland. They can get welfare and benefits faster than the African Americans you mention. Those born here were never intended to be here. So gather up Grandma and Grandpa, take your belongings and head back across the Florida Straits please! I just want a new immigration policy. I'm tired of having my country plundered by those who should never have been here in the first place.

Reply · Apr 14, 2016 1:55am

Michael Masinter
The cruise ships Carnival and its subsidiary operate fly under foreign flags, also known as flags of convenience. The key question in this lawsuit is likely to be whether the Public Accommodation provisions of the 1964 Civil Rights Act apply to foreign flagged ships when those provisions require the ship to violate the law of another nation. SCOTUS has held that foreign flagged ships that operate out of U.S. ports generally are subject to United States law with two exceptions -- U.S. law does not apply to the internal management and affairs of a foreign flagged ship, and more importantly, we...

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Reply · 1 · Apr 13, 2016 4:59pm

Henry A Avellaneda · Department Head at Miami-Dade County Public Schools
This agreement is completely illegal! No US company can discriminate against any citizen or resident when boarding a US vessel even if if they were born in Cuba!

Reply · Apr 13, 2016 5:47pm

Rudy Gump · Consultant at Consulting Detective
You are a department head at a school? I weep for our children. Can you get on a cruise to brazil without a passport and a visa? Not only will you not get to disembark, you also can't board the ship without proper documents. Are you gonna sue brazil? You can't make a company do something that's illegal because you are mad.

Reply · 21 hrs

Howard Feinberg · Works at Carnival Cruise Line
Thank you!

Reply · 19 hrs

Henry A Avellaneda · Department Head at Miami-Dade County Public Schools
Rudy Gump Rudy Gump exactly...this means that private enterprise can not make such agreements. They are illegal. Can American Airlines tell anyone that if you were born in a certain country, you can not travel to it? Noh!

Reply · 2 hrs
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