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eNewsletter

FROM



**O'Connor
Carnathan &
Mack**

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Ousted Hotel Guests Permitted to Proceed to Trial on Chapter 93A Claim

In *Connor v. Marriott International, Inc.*, the plaintiffs made a reservation at the defendant hotel (“Hotel”) for the purpose of meeting with prospective clients for their children’s clothing business. Plaintiffs had stayed at the same Hotel in the past and had used it for the same purpose, with the Hotel’s knowledge. On the occasion in question, when one of the plaintiffs called regarding checking in early for her reservation, the Hotel employee welcomed the plaintiff as a repeat guest and confirmed the booking. The plaintiff also discussed with the Hotel how to handle large boxes of samples that had been shipped to the Hotel in advance. Despite this conversation, when the other plaintiff arrived at the hotel, another Hotel employee informed her that it had a new, unwritten policy that prohibited doing business in the hotel. The plaintiffs repeatedly asked to see a written copy of the new policy, but the Hotel refused to provide one. The Hotel then forced the plaintiffs to leave.

The plaintiffs brought a Chapter 93A claim against the Hotel, and a Superior Court judge entered summary judgment in favor of the Hotel. The Appeals Court vacated the allowance of summary judgment, holding that the record was sufficient to permit a factfinder to conclude that the Hotel had violated Chapter 93A. The Appeals Court relied on evidence that the Hotel accepted the plaintiffs' reservation with full knowledge of the plaintiffs' purpose and practices and received the plaintiffs' advance shipment of merchandise. The Appeals Court also emphasized that the Hotel "seemingly invented a rule to thwart the very reason for [the plaintiffs'] stay." The Court explained that a factfinder could determine that it was unfair and deceptive for the Hotel to allow plaintiffs to make travel plans while "knowing that the Hotel would upend the plaintiffs' plans and disrupt their business as soon as they arrived."

The Appeals Court rejected the Hotel's argument that its conduct was, at worst, imperfect customer service. The Court stated that the Hotel's failure to tell the plaintiffs in advance that they could not do business there anymore was more like neglecting to tell guests that there are no beds than neglecting to tell them that a certain amenity was out of service. This case serves as an important reminder for those in the service industry to document policy changes so as not to risk facing serious penalties under Chapter 93A.

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