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# Owners allege timeshare exchange group was 'profit skimming'

By Jane Croft

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British holidaymakers have brought the first High Court case against a timeshare exchange company, alleging they were victims of an operation that kept them in the dark and rented out their properties for the company's profit and as staff incentives.

Four people are seeking compensation from RCI Europe, which operates a worldwide timeshare exchange club. A further 483 timeshare owners are part of the legal case and the more than 9,000 members of a UK timeshare action group will be affected by the judgment.

No value has been put on the lawsuit but compensation could be as much as £5,000 per person.

Timeshare owners typically buy a contract from developers of a tourist resort giving them the right to stay in a holiday property for a certain number of weeks each year.

Although RCI, which is a subsidiary of US hospitality company Wyndham Worldwide, does not sell timeshare contracts, it runs an exchange system allowing timeshare owners to swap their rights to use one property for a similar holiday home in another location — an apartment in Spain for example for a holiday home in Mexico.

Members say they were told in glossy brochures that there were 4,000 properties to choose from.

However, they allege that RCI's exchange system is "opaque" and that the company made "unauthorised use" of the timeshares to generate profits.

Lynn Cole, an events organiser from Wiltshire, said she became "frustrated" by an "inability to book exchanges of our choice" through the scheme. By 2013, she was so "utterly frustrated" that she gave up trying to exchange her weeks with RCI and instead took holidays in the UK outside the scheme.

"My experience, which was almost always one of frustration, was that you would go down your list of choices and you would be a long way down before you could find anything. Indeed sometimes there was absolutely nothing available," she said in her witness statement which has been put in evidence at the trial.

Jennifer Kravitz, another claimant, who wanted to book a warm and "hopefully exotic" exchange to Thailand or South Africa over Christmas 2004, was told nothing was available at that time but there was availability in Mexico in January 2005.

She says she asked about exchanges to France, Italy and other European destinations "but my questions about availability were always met with a negative answer. I was told that there was no availability," she testified in a witness statement to the High Court. She says she ended up privately booking a holiday to Lanzarote.

"The claimants repeatedly encountered formidable and often insurmountable difficulties in getting suitable or reasonable exchanges," the timeshare owners said in their written legal arguments submitted to the High Court.

They claim that RCI started removing timeshares from the exchange pool and using them for its own purposes to make a profit.

They also allege that members' timeshares were routinely rented out and used as staff incentives.

"RCI wrongfully used members' timeshares in the exchange pool for purposes other than exchanging them with other weeks members," they claimed.

"Such profitmaking came to light only at a late stage in 2015. Even now, the way in which RCI operates, or manipulates, the open system remains opaque and enmeshed in a great complexity," they claimed in written arguments.

Robert Deacon, the lawyer appearing for the timeshare owners, has told the court that the members were entitled to compensation because of the flawed exchange system and undisclosed profit RCI enjoyed from unauthorised use of the timeshares.

Gordon Gurnik, RCI executive president, took to the witness stand at the High Court on Monday to defend the company.

Charles Graham QC, representing RCI, told the judge at the start of the trial that the “skimming allegation is completely unfounded, given the advantages of the open exchange system for members”.

In written arguments, RCI said it was entitled to use members' timeshares as it saw fit because of a clause in its contract with members referred to as the “permitted use” clause.

RCI argues in its written case that its exchange system and the sophisticated algorithm's underlying it has made RCI successful with 3.8m members globally.

“If RCI's system was unfair, and it was not giving members a reasonable opportunity to exchange into the timeshare rights they want, its members would ‘vote with their feet’ and its business would not survive,” the company said.

The case continues.

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