



Texas Cities Win Stand Against Online Travel Companies

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SAN ANTONIO - **Judge Orlando Garcia** of the U.S. District Court for the Western District of Texas has upheld the right of 173 cities in Texas to collect hotel occupancy taxes from online travel companies.

The decision reaffirms a **\$20 million** jury award in 2009 against 11 defendants, including some of the industry's biggest names - Expedia.com, Hotels.com, Hotwire.com, Priceline.com, Travelocity.com and Orbitz.com.

McKool Smith attorneys **Gary Cruciani, Steven Wolens, Tom Grave, Rosemary Snider** and **Michael Fritz** represented the city of San Antonio, which led the battle. Co-counsel for the cities included San Antonio attorneys Frank Herrera and Trey Martinez Fischer and the Dallas law firms of Baron & Budd and Diamond McCarthy.

Garcia found the online companies are obligated under the cities' hotel tax ordinances to collect and pay hotel occupancy taxes on the total amount that guests pay for rooms. The online travel companies had been paying taxes on the wholesale rate that they pay hotels for the right to sell rooms instead of the retail rate, according to a McKool Smith press release. The end result was "virtually every transaction resulted in underpayment of the hotel occupancy tax," the court concluded.

Garcia also found the cities were entitled to additional actual damages that have accrued since the 2009 verdict, plus penalties and interest. He ordered the travel companies to devise a reporting system for the amount of hotel occupancy taxes to be paid to individual cities, setting a six-month deadline from the judgment date to comply.

McKool Smith also represents cities outside Texas in similar claims, including San Francisco, San Diego and Anaheim, Calif., and Broward and Osceola counties in Florida.