



Is A Race Entry a Contract?

By Scott Douglas | November 6, 2012

As do most races, the New York City Marathon has a stated policy that registrants are not due refunds, even in the event of cancellation. While runners wait to hear what the New York Road Runners will do regarding entry fees for this year's canceled marathon, some have wondered how a court of law would view the matter.

"Participation in a sporting event, or a race for example, is not considered to be a right or a privilege for which the law provides protection," Fred Lipp, a business and sports attorney at Bernstein Shur in Portland, Maine, told *Runner's World Newswire*. "The analysis as related to the refunding of race entry fees is entirely a matter of contract law."

According to Lipp, the key from a legal standpoint is the transparency of the marathon's no-refund policy.

"The most important factor is whether race terms were clearly explained on its site," he said. "If the runner should reasonably have seen those terms—whether or not they liked the risk of race cancellation—will determine whether they get their money back."

The marathon's no-refunds-even-if-canceled policy was among the terms and conditions of registering for the race; when registering, it was not possible to gain entry to the marathon without agreeing to those terms.

Travis Brennan, a commercial litigator at Bernstein Shur as well as a registrant for the canceled marathon, said, "In ordinary online transactions, consumers are presented with any number of conditions, and you click the box saying you agree to them. Generally, courts have upheld these unless they're really not clear, such as being typed in a font that can't be read."

Lipp and Brennan agree that whether the marathon overrides its stated no-refund policy will hinge more on public relations than legalities.

"The parties need to find a practical solution in order to preserve the NYC Marathon's good will on all sides," said Lipp.

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