

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

CASE NO.:

AT LAW AND IN ADMIRALTY

JANE DOE, as mother and natural guardian of,
JANIE DOE, a minor,

Plaintiff,

vs.

NCL (BAHAMAS) LTD.
d/b/a Norwegian Cruise Line.,

Defendant.

COMPLAINT

Plaintiff, JANE DOE, as natural mother and legal guardian of JANIE DOE, a minor (hereinafter, "Plaintiff"), by and through undersigned counsel, hereby sues Defendant, NCL (BAHAMAS) LTD., A BURMUDA CORPORATION, d/b/a Norwegian Cruise Line (hereinafter, "NCL" or "Defendant"), files this Complaint for Damages and alleges:

THE PARTIES

1. Plaintiff, JANE DOE, is the mother and natural guardian of the minor child named herein as JANIE DOE. JANE DOE is, and at all times material hereto, was a resident of the State of Arizona and citizen of Canada. At the time of the subject incident (hereinafter "Incident"), Plaintiff, JANIE DOE, was **11 years and 10 months old** and at all times material hereto, was and is a resident of the State of Arizona.

2. The names "JANE DOE" and "JANIE DOE" are a generic reference to Plaintiff and the minor on whose behalf this lawsuit is brought, and their identity should not be public record due

Janie Doe v. NCL (Bahamas) Ltd.

to the nature of the events in this matter and the age of the victim. Defendant is aware of the identity of JANE DOE and of JANIE DOE.

3. At all times material, JANE DOE and JANIE DOE were passengers on the cruise ship *SPIRIT* (hereinafter “The Vessel”) owned and/or operated by Defendant.

4. Defendant NCL is a Bermuda corporation with its principle place of business in Miami, Miami-Dade County, Florida. At all material times Defendant NCL has done business under the fictitious name “NORWEGIAN CRUISE LINES.” For federal jurisdictional purposes, NCL is both a citizen of Bermuda and a citizen of Florida under 28 U.S.C. §1332.

5. At all times material hereto, Defendant operated The Vessel and/or was responsible for the acts that caused the subject incident and injuries and for the hiring, screening, training, monitoring, and/or supervising of Clifford (last name unknown) (hereinafter “Clifford”, “The Stateroom Steward” or “Assailant Crewmember”), the crewmember who perpetrated the subject sexual assault upon JANIE DOE aboard The Vessel.

JURISDICTION

6. This Court has admiralty subject matter jurisdiction under 28 U.S.C. § 1333 as the subject negligence and sexual assault occurred on navigable waters and had the potential to disrupt maritime commerce.

7. This Court has diversity subject matter jurisdiction under 28 U.S.C. §1332 as Plaintiff is completely diverse from Defendant and the amount in controversy far exceeds the minimum jurisdictional amount of \$75,000.00, exclusive of interest, costs and attorneys’ fees.

8. At all times material hereto, Defendant is subject to the personal jurisdiction of this Court as Defendant personally or through an agent(s):

Janie Doe v. NCL (Bahamas) Ltd.

- a. Operated, conducted, engaged in or carried on a business venture in this state and/or county or its or agency in this state and/or county; and/or
- b. Had an office or agency in this state and/or county, i.e., NCL'S corporate headquarters and principal place of business is located at: 7665 Corporate Center Drive, Miami, Florida 33126; and/or
- c. Engaged in continuous, systematic, substantial and not isolated activity either individually or through an agent within the State of Florida and jurisdictional limits of this Court; and/or
- d. Operated cruise ships within Florida waters.
- e. Committed one or more of the acts stated in Florida Statutes, Section 48.081, 48.181 or 48.193.

9. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 and personal jurisdiction lies as to Defendant because at all times material hereto Defendant has its principal place of business in this District, has an office and agents in this District to conduct business here, actually conducts and engages in substantial business activity in this District, engaged in the acts of negligence more fully described herein in this District, and has designated this Court as the proper venue in the venue selection clause in the terms and conditions of the passenger ticket contract.

10. All conditions precedent for filing and maintaining this action have been fulfilled, have been waived, or do not apply. Plaintiff is no longer in possession of her Cruise Ticket Contract, but the Defendant is.

GENERAL ALLEGATIONS

11. **DATE OF INCIDENT:** The incident which is the subject of this civil action occurred on or about June 28, 2018.

12. **LOCATION OF THE INCIDENT:** The incident occurred while The Vessel was in navigable waters and within the “special maritime and territorial jurisdiction of the United States” as defined by 18 U.S.C. § 7.

13. **STATUS OF PLAINTIFF(S):** At all times material hereto, Plaintiff was a fare paying passenger and, as such, invitee on The Vessel owned and/or operated by Defendant during the subject cruise.

14. **DESCRIPTION OF CIRCUMSTANCES RE COUNTS I & II:** Defendant in its literature and advertisements markets, advertises, and represents directly or indirectly that it provides a safe, secure, fun experience for the entire family, including minors. Also, through its senior representatives the Cruise Line has represented to the press in public and to the United States Congress that cruising on its vessels is a safe and secure experience or that cruising is at least as safe and secure as being on land.

15. Defendant markets to families with minor children and teenagers by making representations online and in other materials about teen friendly and family friendly cruise ships. Defendant describes its “splash academy for kids” on its website and invites parents to rely on the Cruise Line to provide a safe environment for children. Defendant advertises on its website that:

From dodgeball to cupcake decorating, there are lots of activities all over our ships for every age group. Plus, kids can learn to juggle at Circus School in Splash Academy and teens have the coolest themed parties in Entourage – our complimentary youth programs. These are the moments you’ll remember. Cruise Norwegian and see why we were voted Best Family Experience by Travel Weekly.

<https://www.ncl.com/why-cruise-norwegian/family-cruises>, attached as Ex. "A".

16. Defendant markets heavily to families with children but fails to take reasonable measures to ensure the safety of children in their cabins. Defendant allows its crew members access to cabins with families and children but fails to properly screen, train, or monitor its crew members. Said crew members are young men away from their families for months at a time and are from developing countries that lack the infrastructure to provide full and proper background information on prospective hires.

17. Defendant typically hires young men from developing countries or from countries where the economy is bleak, and the unemployment rate is high. Defendant pays these young men a minimal wage below the wage which would be required if it hired Americans for the same job. NCL places these young men on the ship for months at a time and requires them to work 7 days a week for 12 to 14 hours a day, all in the name of saving money. These young men are away from their families and spouses and significant others for months at a time while they live and work onboard the ships.

18. And, Defendant does little or nothing to screen these young men before they are hired, to train the young men when they are hired, or to monitor the activities of these young men after they are hired. For background checks, Defendant utilizes agents or "hiring partners" in these countries and relies on the "hiring partners" in the developing country to obtain background information on these candidates. But as the Defendant knows from years of hiring people from these developing countries, the investigation into the background and history of the prospective crewmember in these countries, because of the lack of infrastructure, cannot be complete or verified.

19. Defendant then fails under these circumstances reasonably to screen, examine, and test the applicants for on board jobs which involve a high level of contact with the public and minor children. Defendant also fails to train these crewmembers well and then fails to monitor the

crewmembers. NCL's failure to select, train, and control its male crewmembers and/or officers to stay away from female and minor children passengers allows and/or promotes improper conduct by its crewmembers toward passengers including sexual assault, sexual battery, and sexual abuse.

20. Defendant knows and, upon information and belief, has evidence of other crew members committing assaults, batteries and sexual batteries onboard its ships in the past. See, the Summary Table of Prior Sexual Assaults aboard NCL's ship for the three (3) year period before the Incident, derived from DOT and U.S.C.G. records and/or reports, attached hereto as Ex. "B".

21. Despite the representations about family accommodations and activities and despite the lack of proper screening, training, and monitoring of the onboard personnel, NCL fails to utilize a proper level of technology, i.e., locking doors, monitoring its crewmembers' whereabouts, and proper security procedures to provide a safe environment to its passengers.

22. Defendant provides stateroom stewards with a master key to passenger staterooms for the stewards to clean the staterooms daily. Defendant provides the stewards with a master key knowing the staterooms are rented by families with minor children and knowing it has not properly (a) screened these young men before they are hired, (b) trained the stewards when they are hired, nor (c) monitored their activities after they have been hired. Defendant provided The Stateroom Steward a master key to JANIE DOE'S stateroom, as consequence of which he had unfettered access into the stateroom assigned to JANIE DOE and her family.

23. NCL failed to provide JANIE DOE and her family with a way to protect themselves from unwanted contact with Clifford, as NCL rented JANIE DOE and her family a stateroom that had no way of preventing unwanted entry, such as a functioning deadbolt or a chain lock.

24. As the owner and operator of The Vessel, NCL was in a position to observe the condition of the door, deadbolt, locking mechanism, and door handle of the stateroom to which JANIE

DOE and her family were assigned. Additionally, The Vessel was built by and/or at the direction of Star Cruises' specifications in or about 1996, acquired by NCL in or about 2004 and shortly thereafter retrofitted by and/or at the direction and control of NCL and to its specifications before being placed into service by NCL.

25. JANIE DOE boarded The Vessel on or about June 17, 2018 for a twelve-night cruise.

26. At all times material hereto, Clifford, a seaman aboard The Vessel was employed as a stateroom steward by Defendant.

27. At the time of the Incident, Clifford was approximately 27 years old.

28. At approximately 8:00 p.m., on the date of the subject incident, JANIE DOE was alone in her stateroom. Moments earlier JANIE DOE's parents informed The Stateroom Steward that JANIE DOE was resting in their stateroom and was not to be disturbed. Moments later, at approximately 8:15 p.m., The Stateroom Steward entered the stateroom pretextually to deliver laundry (a/k/a **FIRST OCCASION**). On this occasion, The Stateroom Steward did not knock or otherwise announce his intention to enter the stateroom and gained entry via a master key provided to him by his employer, Defendant, NCL.

29. The Stateroom Steward engaged in conversation with JANIE DOE of a personal and inappropriate nature, eventually leaving the stateroom.

30. Moments later, The Stateroom Steward returned to JANIE DOE's stateroom, again without knocking, dropped off a basket of laundry, and engaged in further conversation with JANIE DOE. On this occasion, The Stateroom Steward again did not knock or otherwise announce his intention to enter the stateroom and again gained entry via a master key provided to him by his employer, Defendant, NCL. During this **SECOND OCCASION** to the stateroom, The Stateroom Steward engaged in the frequently employed predatory tactic of appearing to

befriend JANIE DOE by offering to teach her how to make towel animals. This is an often-employed tactic of sexual predators attempting to “Groom” their victims, in particular minors. After some time, The Stateroom Steward left the stateroom.

31. A few minutes later, The Stateroom Steward returned for a **THIRD OCCASION** to the stateroom. On this occasion, The Stateroom Steward again did not knock or otherwise announce his intention to enter the stateroom and again gained entry via a master key provided to him by his employer, Defendant, NCL. The Stateroom Steward picked up JANIE DOE and began to hold, and repeatedly touch and kiss her inappropriately about her body, against her will and without her permission. After what seemed like a long while, The Stateroom Steward put JANIE DOE down, released her and, finally, left the stateroom.

32. The Stateroom Steward returned to the stateroom for a **FOURTH OCCASION**. On this occasion, The Stateroom Steward again did not knock or otherwise announce his intention to enter the stateroom and again gained entry via a master key provided to him by his employer, Defendant, NCL. JANIE DOE had returned to her bed trying to block out of her mind the recent events. The Stateroom Steward without permission or warning lay on top of JANIE DOE and began forcibly engaging in one or more “sexual contact” as defined in 18 U.S.C. §2246(3) and attempted to engage in one or more “sexual act[s]” as defined in 18 U.S.C. §2246(2).

33. JANIE DOE told The Stateroom Steward to “STOP.” After some time, The Stateroom Steward began to exit the stateroom but turned to JANIE DOE and demanded she not tell anyone of the sexual assault.

34. The actions of Defendant’s crewmember and/or employee Clifford constituted sexual assault and/or sexual battery. Additionally, the actual conduct of the subject crewmember is unlawful and in violation of Criminal Statutes, including but not limited to 18 U.S.C. §2246(3).

35. As a result of the acts perpetrated by Clifford, JANIE DOE suffered physical, emotional, and psychological injuries requiring medical and psychological treatment.

36. **DESCRIPTION OF CIRCUMSTANCES RE COUNTS III & IV:** Following the subject incident and upon reporting it on the evening it occurred, JANE DOE and JANIE DOE were required to appear in The Vessel's infirmary where JANIE DOE was questioned and, at times, interrogated by entirely male NCL ship's officers, made up of the Staff Captain, Head of Security and Ship's Doctor. The interrogation lasted approximately 3-1/2 hours from 9:30 P.M. to 1:00 A.M. Repeatedly, JANE DOE, on behalf of her minor daughter, asked if they could leave. Repeatedly, NCL's officers stated JANE DOE and JANIE DOE needed to stay "as it would only be a little longer." These events caused, *inter alia*, extreme emotional and psychological stress, physical injury and pain and suffering to JANIE DOE.

37. At various junctures during the interrogation, NCL's above mentioned shipboard officers consulted with NCL's corporate offices for direction and instructions, which were provided and controlled the process, scope and nature of the interrogation. NCL's corporate offices controlled the process, nature and scope of the interrogation of JANE DOE and JANIE DOE.

38. NCL's interrogation of JANIE DOE encompassed needless and insensitive questioning, as NCL, based upon information and belief, had already interviewed or was contemporaneously interviewing the Assailant Crewmember and, therefore, knew of the circumstances involving the sexual assault and/or had already been notified by JANE DOE and JANIE DOE that the sexual assault did not include penial or digital penetration/intercourse.¹ These events caused, *inter alia*, extreme emotional and psychological stress, physical injury pain and suffering to JANIE DOE.

¹ This complaint is being filed based upon available information. JANIE DOE, a minor, is presently undergoing counseling and if it is learned that as a result of embarrassment, humiliation and/or wrongly placed guilt JANIE

39. During the interrogation and after having been informed the sexual assault did not include penial or digital penetration/intercourse, NCL, through its officers, produced a Rape Kit Test, placed it in plain sight and insisted JANIE DOE be examined and the Rape Kit Test be accomplished. JANE DOE insisted that neither the examination nor the Rape Kit Test be performed. These events caused, *inter alia*, extreme emotional and psychological stress, physical injury pain and suffering to JANIE DOE.

40. During the interrogation and after having been informed the sexual assault did not include penial or digital penetration/intercourse, NCL, through its officers, demanded JANIE DOE to strip and remove ALL her clothes while in the Ship's Infirmary. JANE DOE, protecting her daughter, refused NCL's demand for ALL of JANIE DOE's clothes. NCL, however, did confiscate JANIE DOE's jeans, t-shirt and bra under the pretextually reason of testing the clothing. JANE DOE "drew the line" at removal and confiscation of JANIE DOE's panties. NCL returned the confiscated clothing to JANIE DOE the day following the interrogation.

41. The interrogation continued until the early morning hours of June 29, 2018. At approximately 1 A.M., exhausted, humiliated and having been interrogated for more than 3-1/2 hours and after having asked on several occasions if they could leave, JANE DOE demanded at the top of her lungs that they be allowed to leave the Ship's Infirmary. Then and only then, did NCL's officers allow JANE DOE and her daughter JANIE DOE to leave.

42. As a result of the acts perpetrated by NCL, through its aforesaid officers, JANIE DOE suffered physical, emotional, and psychological injuries requiring medical and psychological treatment.

DOE understated the sexual assault, Plaintiff reserves the right to file and/or move for leave to file an amended complaint setting forth the full extent of the sexual assault.

COUNT I
(NEGLIGENCE)

43. Plaintiff re-alleges all allegations pled in paragraphs 1 through 35 above as if alleged fully herein.

44. **DUTIES OWED:** The Defendant owes a “duty to exercise reasonable care for the safety of its passengers” including the minor Plaintiff herein. *See, Hall vs. Royal Caribbean Cruises, Limited*, 2004 A.M.C. 1913, 2004 WL 1621209, 29 FLWD 1672, Case No. 3D03-2132 (Fla. 3d DCA Opinion filed July 21, 2004) *citing Kermarec v. Compagnie Generale Transatlantique*, 358 U.S. 625, 79 S. Ct. 406, 3 L. Ed. 2d 550 (1959); and *Harnesk v. Carnival Cruise Lines, Inc.*, 1992 AMC 1472, 1991 WL 329584 (S. D. Fla. 1991). The Defendant also owed a “duty to exercise reasonable care under the circumstances.” *See Harnesk v. Carnival Cruise Lines, Inc.*, 1992 AMC 1472, 1991 WL 329584 (S. D. Fla. 1991). The Defendant’s “duty is to warn of dangers known to the carrier in places where the passenger is invited to or may reasonably be expected to visit.” *See, Carlisle vs. Ulysses Line Limited, S.A.*, 475 So. 2d 248 (Fla. 3d DCA 1985). More specifically, “a high degree of care is demanded of common carriers towards their passengers,” including the “duty to maintain reasonable, safe means for passengers to board and disembark.” *McLean v. Carnival Corp.*, 2013 WL 1024257 (S. D. Fla.), *citing Vierling v. Celebrity Cruises, Inc.*, 339 F. 3d 1309, 1319 (11th Cir. 2003). This duty is non-delegable and “even the slightest negligence renders a carrier liable.” *McLean v. Carnival Corp.*, 2013 WL 1024257 (S. D. Fla.), *citing Vierling v. Celebrity Cruises, Inc.*, 339 F. 3d 1309, 1319 (11th Cir. 2003).

45. Defendant had a duty to meet the material representations made to the public, which were made to induce the public, including families, to choose the Defendant cruise line for the subject vacation and to purchase tickets for this cruise.

46. Defendant breached its duty to provide JANIE DOE with reasonable care under the circumstances by its acts and/or omissions including, but not limited to:

- a. failing to provide a properly-functioning deadbolt or other locking mechanism on her stateroom door;
- b. making it appear as though the door to the stateroom had a functioning deadbolt when it did not, thus creating a false sense of security;
- c. Failing to warn or sufficiently warn of the risk of being sexually assaulted onboard its vessels;
- d. failing to provide or sufficiently provide a reasonably safe cruise ship, free from the risk of being sexually assaulted by crewmembers;
- e. failing to warn or sufficiently warn crewmembers aboard the vessel were sexual predators;
- f. failing to warn or sufficiently warn that crewmembers on board were hired from developing countries where reasonable and sufficient background checks were not available due to the lack of centralized record keeping;
- g. failing to warn or sufficiently warn the ship's CCTV security systems were not adequate to prevent or sufficiently deter crewmembers from sexually assaulting passengers;
- h. failing to warn or sufficiently warn the onboard ship's security personnel were not adequate to prevent or sufficiently deter crewmembers from sexually assaulting passengers;

Janie Doe v. NCL (Bahamas) Ltd.

- i. failing to ensure punishment or sufficient punishment of crewmembers through the lack of preservation of evidence and/or cooperation with law enforcement authorities investigating sex crimes by crewmembers;
- j. failing to create, promulgate, train, follow and/or enforce rules, reasonable and adequate security policies, security measures and procedures designed to prevent or lessen the likelihood of a passenger being sexually assaulted by a crewmember aboard its vessels;
- k. failing to adhere to its advertised material representations with regard to the care and safety of minors aboard its vessels found within various sources of information provided to prospective passengers including, but not limited to: literature and Defendant's website;
- l. failing to create, promulgate, train, follow and/or enforce reasonable and proper rules, regulations, policies, and/or procedures for their crewmembers regarding interaction with minor passengers;
- m. failing to create, promulgate, train, follow and/or enforce procedures designed to address improper fraternization by crewmembers with minor passengers;
- n. failing to screen, hire, train, monitor and retain employees reasonably suited for shipboard duties, in particular, interactions with minors;
- o. failing to provide adequate training for crewmembers/employees in regard to interactions with passengers, including minor passengers;
- p. failing to recruit crew from countries where proper and reliable background checks into criminal, vocational, and mental health histories can be obtained;

Janie Doe v. NCL (Bahamas) Ltd.

- q. failing to perform a thorough and complete background check of Clifford or hiring him from a location which does not have sufficient record keeping to learn of incidents which would alert Defendant of criminal activities of its crewmembers, including Clifford;
- r. failing to adequately supervise Clifford thereby enabling him to enter JANIE DOE's stateroom while she was alone wherein he carried out his sexual assault on her;
- s. continuing to employ and retain as a crewmember a person who Defendant knew or should have known was a danger to female passengers;
- t. failing to have video surveillance in common area hallways, balconies, outside and in other areas to allow the vessel to monitor the activities of its passengers and crew and to deter crew from committing crimes and violent acts onboard;
- u. creating workplace conditions such that sexual crimes are foreseeable;
- v. failing to develop, implement and/or enforce reasonable and proper workplace criteria to reduce and/or eliminate: excessive work hours, excessive work demands and/or excessively long contracts of employment at sea and away from friends and family sufficient to reduce the likelihood of violent acts and/or sexual assaults by employees/crew members upon passengers;
- w. failing to develop, implement and/or enforce workplace environment improvements to reduce the likelihood of violent acts and/or sexual assaults by employees/crew members upon passengers;
- x. failing to implement reasonable and proper methods to prevent crime by their crewmembers against passengers;

Janie Doe v. NCL (Bahamas) Ltd.

- y. failing to comply with applicable industry and other standards, statutes, and/or regulations, the violation of which is negligence per se and/or evidence of negligence;
- z. failing to take additional security measures after being put on notice that the security measures in force are inadequate;
- aa. failing to implement a method of operation which was reasonable and safe and would prevent dangerous conditions such as the one in this case;
- bb. failing sufficiently to monitor and supervise the conduct, activities, and whereabouts of its crew onboard its own cruise ship;
- cc. failing to provide sufficient security personnel to be able to adequately monitor the activities of people and the physical plant of the ship and to respond to emergencies timely and adequately so as to prevent injuries to personnel onboard including passengers such as JANIE DOE;
- dd. failing to make, create, and maintain a safe environment for passengers in common areas leading to and from staterooms;
- ee. violating the International Safety Management Code by failing to have an adequate Safety Management System Manual and/or failing to adequately implement and follow the Safety Management System Manual they have, as it related to protecting passengers from sexual assault and/or rape aboard Defendants' vessels;
- ff. failing to restrict/monitor stateroom stewards' access to staterooms;
- gg. failing to implement a policy to restrict male stateroom stewards from entering passenger staterooms occupied by families with young or adolescent females, unless the steward is female or accompanied by a female steward;

* BRAIS LAW FIRM *

9300 S. DADELAND BLVD., SUITE 101, MIAMI, FLORIDA 33156 * TEL 305.416.2901 * FAX 305.416.2902

Janie Doe v. NCL (Bahamas) Ltd.

- hh. failing to comply with applicable industry standards, statutes, and/or regulations which invoke the Pennsylvania Rule and shifts the burden of proof to the Defendant in the proof of negligence or proof of the absence of negligence; and/or,
- ii. other acts and/or omissions constituting negligence and/or strict liability in violation of NCL's duty to of care to JANIE DOE that may be learned of through discovery.

47. As a result of Defendant's negligence alleged in the preceding paragraph, JANIE DOE suffered economic and non-economic damages. Non-economic damages include but are not limited to bodily injury, emotional distress, mental anguish, pain, suffering, and loss of capacity for the enjoyment of life, incurred in the past and to be incurred in the future. Economic damages include but are not limited to the loss of the ability of JANIE DOE to earn money in the future and the cost of medical and counseling care and treatment incurred in the past and to be incurred in the future. These injuries did not pre-exist the Incident or pre-existed the Incident and thus, were aggravated by the Incident. These damages are continuing and/or permanent.

WHEREFORE, Plaintiff demands judgment against NCL (BAHAMAS) LTD for all of the aforesaid economic and non-economic damages and any and all other damages Plaintiff may be entitled to, including but not limited to: punitive damages, taxable court costs, pre- and post-judgment interest and all other damages which the Court deems just and proper.

COUNT II
STRICT LIABILITY
PHYSICAL ASSAULT, BATTERY, SEXUAL ASSAULT,
SEXUAL BATTERY AND RAPE OF PASSENGER BY CREWMEMBER

48. Plaintiff, hereby adopts and re-alleges each and every allegation in paragraphs 1 through 35 above.

49. **DUTY OWED:** As a common carrier, NCL (BAHAMAS) LTD is strictly liable and responsible for the intentional torts committed by its crewmembers and/or employees including

Janie Doe v. NCL (Bahamas) Ltd.

that of seaman Clifford against its passengers including JANIE DOE. This is a “special non-delegable duty owed by the carrier to the passenger.” *Doe v. Celebrity Cruises, Inc.*, 394 F. 3d 891, 907 (11th Cir. 2004); *New Orleans and N.E.R. Co. v. Jopes*, 142 U.S. 18, 12 S. Ct. 109, 35 L. Ed. 919 (1891); *New Jersey Steam-Boat Co. v. Brockett*, 121 U.S. 637, 7 S. Ct. 1039, 30 L. Ed. 1049 (1887); thus, the cruise line has an “unconditional responsibility” for its employees’ misconduct. *Tullis v. Fidelity and Casualty Company of New York*, 397 F. 2d 22, 23 (5th Cir. 1968) as cited by the Eleventh Circuit Court of Appeals in *Doe v. Celebrity Cruises Inc.*, 394 F. 3d at 909. “It is a widely adopted rule that common carriers owe such an absolute duty to their passengers”. *See Doe v. Celebrity Cruises Inc.* 394 F. 3d at 911.

50. As more fully alleged in Paragraphs 28 – 35, and paragraph 46, including all sub-parts thereof above, Clifford, Defendant’s employee (a seaman crewmember) committed the intentional torts of assault, battery, sexual assault, and sexual battery against JANIE DOE as he knowingly physically and sexually assaulted and battered JANIE DOE against her will and without her permission in her stateroom aboard The Vessel.

51. As a result of Clifford’s physical and sexual assault and battery against her, JANIE DOE suffered economic and non-economic damages. Non-economic damages include but are not limited to bodily injury, emotional distress, mental anguish, pain, suffering, and loss of capacity for the enjoyment of life, incurred in the past and to be incurred in the future. Economic damages include but are not limited to the loss of the ability of JANIE DOE to earn money in the future and the cost of medical and counseling care and treatment incurred in the past and to be incurred in the future. These injuries did not pre-exist the Incident or pre-existed the Incident and thus, were aggravated by the Incident. These damages are continuing and/or permanent.

Janie Doe v. NCL (Bahamas) Ltd.

WHEREFORE, Plaintiff demands judgment against NCL (BAHAMAS) LTD for all of the aforesaid economic and non-economic damages and any and all other damages Plaintiff may be entitled to, including but not limited to: punitive damages, taxable court costs, pre- and post-judgment interest and all other damages which the Court deems just and proper.

COUNT III
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

52. Plaintiff, hereby adopts and re-alleges each and every allegation in paragraphs 1 through 42 above.

53. On or about the above referenced date, NCL and/or its corporate officers, agents, servants, crewmembers, and/or employees negligently inflicted emotional distress on JANIE DOE by:

- a. interrogating JANIE DOE for in excess of 3-1/2 hours;
- b. interrogating JANIE DOE by three male Ship's Officers;
- c. refusing to allow JANIE DOE to leave the Ship's Infirmary, after repeated requests;
- d. repeatedly and needlessly interrogating JANIE DOE about the facts and circumstances of the sexual assault upon her by NCL's crewmember, when NCL knew the facts and circumstances certainly within 30 minutes or so, and otherwise through questioning of the Assailant Crewmember;
- e. placing in plain sight and thereby threatening to conduct a Rape Kit Test upon JANIE DOE knowing full well the sexual assault did not include penial or digital penetration/intercourse;
- f. demanding JANIE DOE strip (remove ALL her clothes) in the Ship's Infirmary as a part of an interrogation by three male Ship's Officers knowing full well the sexual assault did not include penial or digital penetration/intercourse; and

Janie Doe v. NCL (Bahamas) Ltd.

g. forcing JANE DOE at the top of her lungs demand she and her daughter, JANIE DOE, be allowed to leave the Ship's Infirmary after repeated previous requests had been denied.

54. NCL and/or its corporate officers, agents, servants, crewmembers, and/or employees acts and/or omissions caused a painfully chilling effect, humiliation, embarrassment, and deterrent upon JANIE DOE from pursuing her rightful claim of sexual assault.

55. As a direct and proximate result of the aforesaid acts and/or omissions by NCL and/or its corporate officers, agents, servants, crewmembers, and/or employees, JANIE DOE experienced in the past mental and emotional anguish, loss of enjoyment of life, impairment and inconvenience in the normal pursuits and pleasures of life. These injuries did not pre-exist the Incident or pre-existed the Incident and thus, were aggravated by the Incident. These damages continue into the future and/or permanent.

WHEREFORE, Plaintiff demands judgment against NCL (BAHAMAS) LTD for all of the aforesaid economic and non-economic damages and any and all other damages Plaintiff may be entitled to, including but not limited to: punitive damages, taxable court costs, pre- and post-judgment interest and all other damages which the Court deems just and proper.

COUNT IV
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

56. Plaintiff, hereby adopts and re-alleges each and every allegation in paragraphs 1 through 42 above.

57. On or about the above referenced date, NCL and/or its corporate officers, agents, servants, crewmembers, and/or employees deliberately and/or recklessly inflicted emotional distress on JANIE DOE by:

- a. interrogating JANIE DOE for in excess of 3-1/2 hours;
- b. interrogating JANIE DOE by three male Ship's Officers;
- c. refusing to allow JANIE DOE to leave the Ship's Infirmary, after repeated requests;
- d. repeatedly and needlessly interrogating JANIE DOE about the facts and circumstances of the sexual assault upon her by NCL's crewmember, when NCL knew the facts and circumstances certainly within 30 minutes or so, and otherwise through questioning of the Assailant Crewmember;
- e. placing in plain sight and thereby threatening to conduct a Rape Kit Test upon JANIE DOE knowing full well the sexual assault did not include penial or digital penetration/intercourse;
- f. demanding JANIE DOE strip (remove ALL her clothes) in the Ship's Infirmary as a part of an interrogation by three male Ship's Officers knowing full well the sexual assault did not include penial or digital penetration/intercourse; and
- g. forcing JANE DOE at the top of her lungs demand she and her daughter, JANIE DOE, be allowed to leave the Ship's Infirmary after repeated previous requests had been denied.

58. NCL and/or its corporate officers, agents, servants, crewmembers, and/or employees deliberate and/or reckless acts and/or omissions caused a painfully chilling effect, humiliation, embarrassment, and deterrent upon JANIE DOE from pursuing her rightful claim of sexual assault.

59. As a direct and proximate result of the aforesaid deliberate and/or reckless acts and/or omissions by NCL and/or its corporate officers, agents, servants, crewmembers, and/or employees, JANIE DOE experienced in the past mental and emotional anguish, loss of

Janie Doe v. NCL (Bahamas) Ltd.

enjoyment of life, impairment and inconvenience in the normal pursuits and pleasures of life. These injuries did not pre-exist the Incident or pre-existed the Incident and thus, were aggravated by the Incident. These damages continue into the future and/or permanent.

WHEREFORE, Plaintiff demands judgment against NCL (BAHAMAS) LTD for all of the aforesaid economic and non-economic damages and any and all other damages Plaintiff may be entitled to, including but not limited to: punitive damages, taxable court costs, pre- and post-judgment interest and all other damages which the Court deems just and proper.

Submitted this 18th day of April 2019.

BRAIS LAW FIRM

Counsel for Plaintiff

Dadeland Towers

9300 S. Dadeland Blvd., Suite 101

Miami, Florida 33156

Telephone: (305) 416-2901

Facsimile: (305) 416-2902

By: /s/ Keith S. Brais

KEITH S. BRAIS

Florida Bar No. 863319

kbrais@braislaw.com

MICHELLE Y. GURIAN

Florida Bar No. 100312

mgurian@braislaw.com