

TABLE 6

COVID Related Tort Claims and Liability

March 3, 2021

WRITTEN MATERIALS

Troutman
v.
Big Blue Healthcare

Talesha Saint Marc, Moderator

Defendant: Table 5/Judge Delker

Plaintiff: Table 8/Judge Laplante

The surviving children of the decedent, Margaret Troutman, brought a wrongful death action against Big Blue Healthcare (“BBH”), a residential care facility, alleging the BBH was negligent in failing to protect their mother against COVID-19 infections.

Troutman was admitted to BBH in 2017 because she was incapable of caring for herself. In late March 2020, a BBH staff member began showing symptoms of COVID-19. She had a runny nose and a low-grade fever, but BBH allowed her to continue working. BBH made the staff member wear a mask, but only when she entered a resident’s room. On March 29, the staff member was tested for COVID-19. On March 30, the results came back positive for COVID-19, and BBH sent the staff member home.

Despite the positive test, BBH still allowed residents to congregate in common areas and to receive visitors. On April 1, the decedent’s son, who just returned from a business trip in China, came to visit her. Although BBH required visitors to wear masks, he did not wear a mask during his three-hour visit with her. During the visit, the two spent some of their time in the common area, interacting with other residents. Three days later, the decedent’s son developed COVID-19 symptoms, and he later tested positive for COVID-19.

By April 17, seventeen residents and two staff members tested positive at BBH. Troutman was diagnosed with COVID-19 on or around April 10, and she died from COVID-19 complications a month later. Her family claims BBH breached their duty of care and were negligent and careless by failing to:

- follow proper infection control protocols and guidelines;
- ensure workers were not working with COVID-19 symptoms;
- provide personal protective equipment to staff;
- separate those with symptoms from those without;
- adhere to social-distancing guidelines;
- respond to the presence of COVID-19 in the facility;
- timely request additional staff and assistance from public health entities;
- protect, supervise, and provide 24-hour care to Troutman;

- properly supervise and train staff;
- follow standing orders, instructions, and protocol regarding COVID-19; and
- provide adequate interventions.

Michael and Sarah Austin

v.

Princess Cruise Lines

Brett Allard, Moderator

Defendant: Table 4/Judges Johnstone and Schulman

Plaintiff: Table 3/Judge Hicks

CHRONOLOGY

- 1ST week in February COVID outbreak on the Diamond Princess
- Feb 18 CDC issues a statement about the high risk on the Diamond Princess
- Feb 20 Michael and Sarah fly from Seattle to San Francisco. Sold out flight. Sightseeing; dinner in busy restaurant; overnight at hotel
- Feb 21 Michael and Sarah board the Princess All passengers sign document that they are not sick and have no symptoms
- Feb 22 – 24 COVID outbreak on the Diamond Princess. 600 passengers sick. 4 die. Michael and Sarah get sick, but fully recover.

Robert King
v.
Port Authority

Seth Greenblott, Moderator

Defendant: Table 7/Judge Maloney

Plaintiff: Table 2/Judge Chabot

CHRONOLOGY

- After 19 years working as a mechanic for Port Authority, 61-year-old Robert King was infected with the coronavirus. He died shortly after his hospitalization with symptoms of the infection which his Estate claims to have happened during the course of his employment at Port Authority.
- When Covid-19 was first recognized, Port Authority issued masks to all workers directing them to wear masks during their employment. Almost immediately, they revised their policy – workers were directed to only wear masks if required for their job. On March 7, masks were removed from the facility.
- Official Port Authority policy called for social distancing. But that policy was not uniformly enforced.
- Mr. King – a gregarious, affectionate individual – generally followed social distancing instructions, but he continued to shake hands and occasionally hug other workers.
- On March 31, Mr. King was hospitalized with symptoms of Covid infection. Two days later, he was transferred to the ICU and placed on ventilator support. Not long after, he died.
- We now have evidence that one of Mr. King's friends at work reported to supervisors that he was experiencing mild symptoms of infection, including a sore throat and runny nose. He was not instructed to quarantine until after receiving a positive Covid test on March 16.

ADDITIONAL COVID-19 RELATED RESOURCES

As the pandemic has progressed, it has impacted every facet of life—the legal profession is no exception. In addition to impacting our daily, professional lives, the pandemic has brought with it a wave of COVID-19-related litigation and legislation. The below provides a non-exhaustive list of certain areas of interest as they relate to COVID-19 as well as filed complaints, articles, and proposed legislation.

I. Claims of Price Gouging

Not surprisingly, the pandemic has raised the demand for certain products. The following lawsuits reflect civil actions by consumers accusing individuals and companies of price gouging:

- *Mary McQueen, et al. v. Amazon Inc.*, Case No. 4:20-cv-02782 (U.S. District Court for the Northern District of California).
 - This lawsuit claims that the company took advantage of consumers during the pandemic because prices for certain products increased beyond and above normal levels.
- *Adrienne Fraser, et al. v. Cal-Maine Foods Inc., et al.*, Case No. 3:20-cv-02733 (U.S. District Court for the Northern District of California).
 - This lawsuit claims that the defendants unlawfully increased the price of eggs in an excessive and unjustified manner.
- *3M Company v. KM Brothers Inc., et al.*, Case No. 2:20-cv-05049 (U.S. District Court for the Central District of California).
 - This lawsuit involves a claim of trademark infringement against a seller on Amazon for allegedly selling fake N95 masks.

II. Claims Regarding Coronavirus Cures and Treatments

The following lawsuits reflect a range of civil actions filed against certain sellers or manufacturers of purported treatments and cures related to COVID-19:

- *Peter A. Lagorio v. Germbloc Inc., et al.*, Case No. 1:20-cv-11074 (U.S. District Court for the District of Massachusetts).
 - The lawsuit claims that consumers were misled to believe that using the company's product would kill 99.9% of all germs that cause illness.
- *Burton Kraus, et al. v. Snow Teeth Whitening, et al.*, Case No. 2:20-cv-06085 (U.S. District Court for the Eastern District of New York).

- The lawsuit alleges that the company committed false advertising about its product, including allegations that the company claimed the whitening “lights” may offer COVID-19 protection.
- *David, et al. v. Vi-Jon Inc. d/b/a Germ-X*, Case No. 3:20-cv-99999 (U.S. District Court for the Southern District of California).
 - The lawsuit claims that consumers were deceived by the company into believing that the product could reduce a consumer’s chance of infection from the flu and other viruses, including COVID-19.
- *Patrick McDermid v. Inovio Pharmaceuticals Inc. et al.*, Case No. 2:20-cv-01402 (U.S. District Court for the Eastern District of Pennsylvania).
 - The lawsuit alleges that the defendants made intentionally confusing statements about the progress of a COVID-19 vaccine in order to push up its trading price, thereby harming its investors.

III. Claims Related to Failure to Provide Refunds

At the outset of the pandemic, individual States enforced stay-at-home orders in an attempt to slow or stop the spread of the virus. This resulted in the cancellation of certain events and forced industries to shut down or significantly curtail their services. The following lawsuits reflect allegations that individuals and companies refused to provide refunds to consumers in light of these exigent circumstances:

- *Maria Diaz v. Air China Limited*, Case No. 1:20-cv-07555 (U.S. District Court for the Southern District of New York).
- *Shirley Johnson v. Frontier Airlines*, Case No. 1:20-cv-01751 (U.S. District Court for the District of Colorado).
- *Krystal Forbes v. Six Flags Great Adventure LLC, et al.*, Case No. 1:20-cv-06873 (U.S. District Court for the District of New Jersey).
- *Matthew Ajzenman, et al. v. Office of the Commissioner of Baseball*, Case No. 2:20-cv-03643 (U.S. District Court for the Central District of California, Western Division).
- *Adrian Bombin v. Southwest Airlines Co.*, Case No. 5:20-cv-01883 (U.S. District Court for the Eastern District of Pennsylvania).
- *Kyle Vodden v. WW International Inc.*, Case No. 1:20-cv-03856 (U.S. District Court for the Southern District of New York).

- *Timothy Nellis, et al. v. Vivid Seats, et al.*, Case No. 1:20-cv-02486 (U.S. District Court for the Northern District of Illinois).

IV. Claims Against the Cruise Ship Industry

The following lawsuits reflect civil actions filed against certain companies relative to their handling of COVID-19 on certain cruise ships, with many of the actions being based on traditional principles of negligence:

- *Leonard C. Lindsay, et al. v. Carnival Corp., et al.*, Case No. 2:20-cv-00982 (U.S. District Court of Western Washington).
- *Fred Kantrow and Marlene Kantrow, et al. v. Celebrity Cruises Inc.*, Case No. 1:20-cv-21997 (U.S. District Court for the Southern District of Florida).
- *Dorety v. Princess Cruise Lines Ltd.*, Case No. 2:20-cv-03507 (U.S. District Court for the Central District of California).

V. Legislation

In addition to an influx of certain COVID-19 related litigation, state legislatures throughout the United States have taken steps to address issues of liability as they relate to the pandemic. New Hampshire is no exception. Notably, Senate Bill 63 (2021), an act “relative to business liability protection for exposure to coronavirus and COVID-19,” intends to add a new chapter to the New Hampshire statutory scheme to address business liability in light of the pandemic. The bill as introduced provides, in pertinent part, as follows:

Notwithstanding any other provision of law to the contrary and except as provided in RSA 546-C:3, as a matter of law, no business organization shall be liable for personal injury resulting from or related to an actual or alleged exposure to coronavirus in the course of such business organization’s business activity, or in the course of working for such business organization in any capacity, provided that in the performance of its business activity, provided that in the performance of its business activity at the time of alleged or actual exposure, the business organization was following applicable government standards and guidance related to coronavirus exposure.

An individual can overcome the preceding if they demonstrate by clear and convincing evidence that their injuries were the result of (a) gross negligence; (b) willful misconduct; (c) intentional criminal conduct; or (4) intentional inflict of harm, and the individual must prove proximate cause by clear and convincing evidence. Notably, the bill seeks to

implement a one year statute of limitations for alleged injuries arising from COVID-19. If enacted as law, the bill will no doubt have an impact on claims that can be raised and the defenses associated with them relative to personal injury arising out of COVID-19 in New Hampshire.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES

CASE NO.:

MICHAEL AUSTIN, WYONNIE AUSTIN,
KENNETH NICKENS and LUCILLE NICKENS

Plaintiffs,

v.

PRINCESS CRUISE LINES LTD.

Defendant.

COMPLAINT AND JURY DEMAND

Plaintiffs, by and through their undersigned counsel, hereby sues Defendant, PRINCESS CRUISE LINES LTD. (hereinafter, "PRINCESS"), and alleges:

THE PARTIES AND JURISDICTION

1. This is an action seeking damages in excess of \$1,000,000.00 (One Million Dollars) exclusive of interest, costs and attorney's fees.
2. This Court has diversity subject matter jurisdiction pursuant to 28 U.S.C. § 1332 as this is a civil action in which the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States and/or citizens of a State and citizens or subjects of a foreign state.
3. This Court also has Admiralty subject matter jurisdiction pursuant to 28 U.S.C. § 1333 as this case involves a maritime tort. The type of incident and injuries suffered by Plaintiffs had the potential to impact maritime commerce as Plaintiffs are at serious risk of imminent harm

as a result of being exposed to the Coronavirus running rampant aboard the cruise ship upon which they are paying passengers.

4. Plaintiff, MICHAEL AUSTIN is sui juris, is a resident of Cook County Illinois, and was a passenger onboard the Grand Princess.

5. Plaintiff, WYONNIE AUSTIN is sui juris, is a resident of Cook County Illinois, and was a passenger onboard the Grand Princess.

6. Plaintiff, KENNETH NICKENS is sui juris, is a resident of Wood County Ohio, and was a passenger onboard the Grand Princess.

7. Plaintiff, LUCILLE NICKENS is sui juris, is a resident of Wood County Ohio, and was a passenger onboard the Grand Princess.

8. Princess Cruise Lines LTD. is incorporated in Bermuda, with its headquarters in Santa Clarita California. The action is being filed in this Court pursuant to the terms and conditions of the Passenger Contract issued by Defendant, Princess Cruise Lines Ltd.

9. At all times hereto, PRINCESS owned and operated the cruise ship the Grand Princess.

10. This Court has personal jurisdiction over PRINCESS as PRINCESS' principle place of business is located in Los Angeles County, Los Angeles.

11. PRINCESS conducts substantial business within the state of California, including operating cruises from ports in San Francisco, San Diego and Los Angeles.

12. PRINCESS markets cruise vacations to Californian residents and employs thousands of Californian residents to work at its California headquarters.

13. Plaintiffs MICHAEL AUSTIN and WYONNIE AUSTIN were passengers aboard the Grand Princess which departed out of San Francisco on February 21, 2020, and had

been quarantined on said ship through Thursday, March 12, 2020, as a result of an outbreak of COVID-19.

14. Plaintiffs KENNETH NICKENS and LUCILLE NICKENS were passengers aboard the Grand Princess which departed out of San Francisco on February 21, 2020, and had been quarantined on said ship through Tuesday, March 10, 2020, as a result of an outbreak of COVID-19.

FACTUAL BACKGROUND

In the recent months, there has been a worldwide outbreak of a new strain of the Corona virus, commonly known as COVID-19. The virus began in China in December 2019, and has quickly spread throughout Asia, Europe and most recently, North America. The virus causes temperature, a dry cough, and can be fatal. There have been over One Hundred Thousand cases worldwide and over Three Thousand deaths as result of COVID-19. Those fatalities have largely been amongst the elderly population, and those with underlying medical complications.

COVID-19 really gained the attention of the public when the Diamond Princess cruise ship, also owned and operated by Defendant, suffered an outbreak of the disease at the beginning of February 2020 in Yokohama, Japan. The outbreak began with ten cases, and rapidly multiplied to seven hundred cases, as a result of the flawed two week quarantine on the ship. The Center for Disease Control, (CDC) issued a statement on February 18, 2020, that “the rate of new reports of positives new on board, (Diamond Princess), especially among those without symptoms, highlights the high burden of infection on the ship and potential for ongoing risk.” Seven of Defendant’s passengers died as a result of COVID-19.

It would only stand to reason, that having experienced such a traumatic outbreak on board one of its vessels less than a month prior to the current voyage on board the Grand Princess, that the Defendant would have learned to take all necessary precautions to keep its passengers, crew and the general public safe. Unfortunately, the Defendant PRINCESS did no such thing, which is why Plaintiffs are now at **actual risk of immediate physical injury proximately caused by the Defendant's negligence.**

COUNT I

(NEGLIGENCE AGAINST PRINCESS)

Plaintiffs re-allege all allegations in paragraphs 1 through 14 above as if alleged fully herein.

15. PRINCESS owed Plaintiffs, who are paying passengers who boarded the Grand Princess on February 21, 2020, the duty to ensure that they would not be exposed to unreasonable risk of harm that defendant knew or should have known about while sailing on its vessel.

16. Defendant breached its duty in that it had knowledge that at least one of its passengers from the prior voyage who disembarked Feb 21, 2020 had symptoms of coronavirus, and yet it made the conscious decision to continue sailing the voyage that began on February 21, 2020 with another three thousand passengers on an infected ship.

17. Specifically, Defendant was aware of at least two passengers who disembarked its ship on February 21, 2020 in San Francisco, had symptoms of the coronavirus. It went as far as to send emails on Wednesday February 25, to passengers who disembarked the Grand Princess on February 21, notifying them of the potential of exposure to the coronavirus while onboard their cruise.

18. To make matters even worse, there are sixty two passengers on board the Plaintiffs' cruise, who were also on the prior voyage, who were exposed to the passengers that were confirmed to be infected, and later died.

19. In continuing to sail with another three thousand passengers including Plaintiffs on February 21, 2020, knowing that some of those passengers and crew had already been exposed to COVID-19, the Defendant PRINCESS has exposed Plaintiffs to actual risk of immediate physical injury.

20. Defendant is further negligent in failing to have proper screening protocols for COVID-19 prior to boarding the passengers on Plaintiffs' voyage. Despite the knowledge and experience it had with the outbreak of the disease on the Diamond Princess just a mere three weeks prior to the instant case, Defendant did not have proper screening protocol in place to minimize the risk of exposure of the disease to its passengers and crew.

21. Prior to boarding the February 21, 2020 sailing on the Grand Princess, passengers were simply asked to fill out a piece of paper confirming they were not sick. Not one passenger was questioned, let alone examined in any capacity. Incredibly, not one of those sixty two passengers or crew members who were mixing and mingling with the infected prior passengers were ever examined during the instant voyage until being tested for the virus on Thursday March 5, 2020, two weeks after the ship sailed.

22. As a result of the Defendant's lackadaisical approach to the safety of Plaintiffs, its passengers and crew aboard the Grand Princess, Plaintiffs are at actual risk of immediate physical injury.

23. Finally, Defendant PRINCESS is negligent in failing to adequately warn Plaintiffs about the potential exposure to COVID-19 prior to boarding the ship on February 21, 2020, and

again during the sailing of said cruise. Defendant had actual knowledge of at least two passengers who sailed on its ship the week prior, disembarked with symptoms of coronavirus, and one confirmed death as a result. Defendant also knew that there were sixty two passengers and crew who were onboard that same sailing, who now are on board with Plaintiffs, and failed to inform Plaintiffs **at any time prior to boarding or while they were already onboard**, that there is an actual risk of exposure to COVID-19. In addition, PRINCESS failed to inform Plaintiffs that a crew member aboard their cruise actually disembarked in Hawaii as a result of coronavirus.

24. If Plaintiffs had knowledge of this actual risk of exposure prior to boarding, they would have never boarded the ship. If they were informed of the risk on February 25, 2020, when the former passengers were notified by email, Plaintiffs would have disembarked at the first port of call in Honolulu on Feb 26, 2020. Due to Defendant's outright negligence in failing to warn Plaintiffs of the actual risk of exposure to COVID-19 aboard its infected ship, Plaintiffs were quarantined in their cabin along with the rest of the passengers and crew, off the coast of San Francisco, anxiously awaiting their fate, until they were transferred to various air force bases across the country where they remain quarantined.



25. As a direct and proximate result of the aforementioned negligence of the Defendant PRINCESS, in exposing them to actual risk of immediate physical injury, Plaintiffs are suffering from emotional distress, are traumatized from the fear of developing COVID-19 as they sit minute after minute in confinement, and this emotional harm will continue to plague them.

WHEREFORE, Plaintiffs demand judgment against Defendant PRINCESS for damages suffered as result of their negligence and a trial by jury on all issues triable.

COUNT II

(GROSS NEGLIGENCE AGAINST DEFENDANT PRINCESS)

Plaintiff re-alleges all allegations set out in paragraphs 1 through 25 above as if alleged fully herein.

26. Defendant Princess' conduct in deciding to continue to sail the Grand Princess with Plaintiffs, knowing that the ship was infected from two previous passengers who came down with symptoms of COVID-19, and had sixty two passengers on board with plaintiffs who were previously exposed to those two infected individuals, along with the prior crew, shows a lack of any care on the part of Defendant, amounting to gross negligence. Defendant knew how dangerous it was to expose Plaintiffs and the rest of its passengers to COVID-19 in light of its experience with the Diamond Princess a short three weeks prior, and yet it departed from what a reasonably careful cruise line would do under the circumstances in continuing to sail with Plaintiffs.

27. Moreover, Defendant's conduct in failing to warn Plaintiffs of their actual risk of harm in being exposed to COVID-19, either prior to boarding or while they were already on board, in light of the prior passenger who came down with symptoms who ended up dying, along with others who came down with symptoms from that prior voyage, and the crew member who disembarked during this voyage from the virus, amounts to an extreme departure of a what a reasonably careful cruise line would do, in light of that fact that Plaintiffs are elderly.

28. Defendant PRINCESS chose to place profits over the safety of its passengers, crew and the general public in continuing to operate business as usual, despite their knowledge of the actual risk of injury to Plaintiffs, who are elderly.

WHEREFORE, Plaintiffs demand judgment against PRINCESS including punitive damages suffered as a result of the alleged gross negligence on Defendant, and a trial by jury on all issues triable.

DEMAND FOR JURY TRIAL

The Plaintiffs hereby demand trial by jury of all issues so triable of right.

DATED this 17th day of March, 2020.

Michael A. Simmrin
SIMMRIN LAW GROUP
3500 W. Olive Avenue
Suite 300
Burbank, CA 91505
Tel.: (954) 476-1000
Fax:

By



MICHAEL A. SIMMRIN
California Bar No. 238092

Debi F. Chalik (Pro Hac Vice Pending)
CHALIK AND CHALIK, P.A.
Attorneys for Plaintiff
10063 N. W. 1st Court
Plantation, Florida 33324
Tel.: (954) 476-1000
Fax: (954) 472-1173

By



DEBI F. CHALIK
Florida Bar No. 179566

| | |
|---|---|
| I. (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) MICHAEL AUSTIN, WYONNIE AUSTIN, KENNETH NICKENS and LUCILLE NICKENS | DEFENDANTS (Check box if you are representing yourself <input type="checkbox"/>) Princess Cruise Lines Ltd. |
| (b) County of Residence of First Listed Plaintiff <u>Cook</u> (EXCEPT IN U.S. PLAINTIFF CASES) | County of Residence of First Listed Defendant <u>Los Angeles</u> (IN U.S. PLAINTIFF CASES ONLY) |
| (c) Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information. Michael A. Simmrin 3500 W. Olive Avenue, Suite 300 Burbank, CA 91505 818-827-7171 | Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information. |

| | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|--|----------------------------|---|----------------------------|---|-----|-----|--|----------------------------|----------------------------|--|----------------------------|---------------------------------------|--------------------------|---------------------------------------|----------------------------|---|----------------------------|----------------------------|---|----------------------------|----------------------------|----------------|----------------------------|----------------------------|
| II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1. U.S. Government Plaintiff <input type="checkbox"/> 2. U.S. Government Defendant <input type="checkbox"/> 3. Federal Question (U.S. Government Not a Party) <input checked="" type="checkbox"/> 4. Diversity (Indicate Citizenship of Parties in Item III) | III. CITIZENSHIP OF PRINCIPAL PARTIES-For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant) <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;">Citizen of This State</td> <td style="width:5%;">PTF</td> <td style="width:5%;">DEF</td> <td style="width:30%;">Incorporated or Principal Place of Business in this State</td> <td style="width:5%;">PTF</td> <td style="width:5%;">DEF</td> </tr> <tr> <td></td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td></td> <td><input type="checkbox"/> 4</td> <td><input checked="" type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input checked="" type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table> | Citizen of This State | PTF | DEF | Incorporated or Principal Place of Business in this State | PTF | DEF | | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 | Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 | Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |
| Citizen of This State | PTF | DEF | Incorporated or Principal Place of Business in this State | PTF | DEF | | | | | | | | | | | | | | | | | | | | |
| | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 | | | | | | | | | | | | | | | | | | | | |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 | | | | | | | | | | | | | | | | | | | | |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 | | | | | | | | | | | | | | | | | | | | |

IV. ORIGIN (Place an X in one box only.)

1. Original Proceeding
 2. Removed from State Court
 3. Remanded from Appellate Court
 4. Reinstated or Reopened
 5. Transferred from Another District (Specify)
 6. Multidistrict Litigation - Transfer
 8. Multidistrict Litigation - Direct File

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check "Yes" only if demanded in complaint.)

CLASS ACTION under F.R.Cv.P. 23: Yes No **MONEY DEMANDED IN COMPLAINT:** \$ Excess of 1 million

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 Defendant was negligent in continuing its voyage on February 21, 2020, knowing that there was an ill passenger aboard their ship who had the potential to infect passengers and crew with Coronavirus. Plaintiffs are seeking general and punitive damages.

VII. NATURE OF SUIT (Place an X in one box only.)

| OTHER STATUTES | CONTRACT | REAL PROPERTY CONT. | IMMIGRATION | PRISONER PETITIONS | PROPERTY RIGHTS |
|--|---|---|--|--|---|
| <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/Etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org. <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes | <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.) <input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment | <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input checked="" type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability | <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 American with Disabilities-Employment <input type="checkbox"/> 446 American with Disabilities-Other <input type="checkbox"/> 448 Education | Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee Conditions of Confinement FORFEITURE/PENALTY <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Ret. Inc. Security Act | <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405 (g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405 (g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609 |

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES

CASE NO.: 2:20-cv-03317

DAVID RUMRILL and
DONNA RUMRILL

Plaintiffs,

V.

PRINCESS CRUISE LINES LTD.

Defendant.

_____ /

COMPLAINT AND JURY DEMAND

Plaintiffs, by and through their undersigned counsel, hereby sues Defendant,
PRINCESS CRUISE LINES LTD. (hereinafter, "PRINCESS"), and alleges:

THE PARTIES AND JURISDICTION

1. This is an action seeking damages in excess of \$1,000,000.00 (One Million Dollars) exclusive of interest, costs and attorney's fees.
2. This Court has diversity subject matter jurisdiction pursuant to 28 U.S.C. § 1332 as this is a civil action in which the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States and/or citizens of a State and citizens or subjects of a foreign state.

3. This Court also has Admiralty subject matter jurisdiction pursuant to 28 U.S.C. § 1333 as this case involves a maritime tort. The type of incident and injuries suffered by Plaintiffs had the potential to impact maritime commerce as Plaintiffs are at serious risk of imminent harm as a result of being exposed to the Coronavirus running rampant aboard the cruise ship upon which they are paying passengers.

4. Plaintiff, DAVID RUMRILL is sui juris, is a resident of Polk County, Florida, and was a passenger onboard the Ruby Princess.

5. Plaintiff, DONNA RUMRILL is sui juris, is a resident of Polk County, Florida, and was a passenger onboard the Ruby Princess.

6. Princess Cruise Lines LTD. is incorporated in Bermuda, with its headquarters in Santa Clarita California. The action is being filed in this Court pursuant to the terms and conditions of the Passenger Contract issued by Defendant, Princess Cruise Lines Ltd.

7. At all times hereto, PRINCESS owned and operated the cruise ship the Ruby Princess.

8. This Court has personal jurisdiction over PRINCESS as PRINCESS' principle place of business is located in Los Angeles County, Los Angeles.

9. Plaintiffs DAVID RUMRILL and DONNA RUMRILL were passengers aboard the Ruby Princess which departed out of Sydney, Australia on

March 8, 2020 and had to return 3 days early on March 19, 2020, as a result of an outbreak of COVID-19.

FACTUAL BACKGROUND

In the recent months, there has been a worldwide outbreak of a new strain of the Corona virus, commonly known as COVID-19. The virus began in China in December 2019, and has quickly spread throughout Asia, Europe and most recently, North America. The virus causes temperature, a dry cough, and can be fatal. There have been over One Hundred Thousand cases worldwide and over Three Thousand deaths as result of COVID-19. Those fatalities have largely been amongst the elderly population, and those with underlying medical complications.

COVID-19 really gained the attention of the public when the Diamond Princess cruise ship, also owned and operated by Defendant, suffered an outbreak of the disease at the beginning of February 2020 in Yokohama, Japan. The outbreak began with ten cases, and rapidly multiplied to seven hundred cases, as a result of the flawed two week quarantine on the ship. The Center for Disease Control, (CDC) issued a statement on February 18, 2020, that “the rate of new reports of positives new on board, (Diamond Princess), especially among those without symptoms, highlights the high burden of infection on the ship and potential for ongoing risk.” Seven of Defendant’s passengers died as a result of COVID-19.

Subsequently, Princess Cruises suffered two additional outbreaks on the Grand Princess sailings of February 11, 2020 and February 21, 2020 out of San Francisco, resulting in more than four deaths and hundreds of infections to its passengers and crew members. Despite having experienced three major outbreaks on its ships, Princess Cruises kept sailing out of various ports of call around the world, including the Ruby Princess ship which sailed out of Sydney, Australia on March 8, 2020.

Princess Cruises decided to sail on March 8, 2020, despite their knowledge of the significant risk of harm to their passengers and crew members, in light of their three prior voyages on other ships that resulted in outbreaks of the disease in catastrophic proportions. More importantly, Princess Cruises experienced an outbreak of COVID-19 on the Ruby Princess on the sailing just prior to the March 8, 2020 voyage, and yet they recklessly decided to board another three thousand passengers on March 8, 2020, and put their lives at risk.

COUNT I

(NEGLIGENCE AGAINST PRINCESS)

Plaintiffs re-allege all allegations in paragraphs 1 through 9 above as if alleged fully herein.

10. PRINCESS owed Plaintiffs, who are paying passengers who boarded the Ruby Princess on March 8, 2020, the duty to ensure that they would not be

exposed to unreasonable risk of harm that defendant knew or should have known about while sailing on its vessel.

11. Defendant breached its duty in that it suffered a COVID-19 outbreak on the voyage just prior to the March 8, 2020 sailing, and yet it made the conscious decision to continue sailing the voyage that began on March 8, 2020, with another three thousand passengers on an infected ship.

12. Specifically, Defendant was aware of the outbreak, and went as far as to provide vouchers to the passengers to buy lunch, while they delayed the sailing for six hours so that they could further disinfect the ship prior to sailing.

13. In continuing to sail with another three thousand passengers including Plaintiffs on March 8, 2020, knowing that the ship and crew had already been exposed to COVID-19, the Defendant PRINCESS has exposed Plaintiffs to actual risk of immediate physical injury.

14. Defendant is further negligent in failing to have proper screening protocols for COVID-19 prior to boarding the passengers on Plaintiffs' voyage, despite their experience of outbreaks on multiple ships prior to the March 8, 2020 sailing, including the outbreak on the subject ship just one week prior.

15. To add insult to injury, the Defendant PRINCESS was aware of an outbreak of COVID-19 on the March 8, 2020 sailing, and failed to even attempt to quarantine any of the passengers onboard. They didn't even bother to notify the

passengers that there was an actual outbreak, allowing the sailing to continue as if it were a normal cruise, up until the time it returned to Australia three days early.

16. As a result of the Defendant's lackadaisical approach to the safety of Plaintiffs, its passengers and crew aboard the Ruby Princess, Plaintiffs contracted COVID-19.

17. Finally, Defendant PRINCESS is negligent in failing to adequately warn Plaintiffs about the potential exposure to COVID-19 prior to boarding the ship on March 8, 2020, and again during the sailing of said cruise. Defendant had actual knowledge of passengers and crew members with symptoms of coronavirus during the March 8, 2020 sailing and failed to inform Plaintiffs at any time prior to boarding or while they were already onboard, that they were exposed to COVID-19.

18. If Plaintiffs had knowledge of this actual risk of exposure prior to boarding, they would have never boarded the ship, and they would've boarded the first flight out of Australia and returned home. Due to Defendant's outright negligence in failing to warn Plaintiffs of the actual risk of exposure to COVID-19 aboard its infected ship, Plaintiffs disembarked early and anxiously awaiting their fate, until they flew back to Florida where they remain quarantined in their homes after testing positive for the coronavirus.



19. As a direct and proximate result of the aforementioned negligence of the Defendant PRINCESS, in exposing them to actual risk of immediate physical injury, Plaintiffs are suffering from emotional distress, as they remain quarantined in their homes, hoping for a recovery.

WHEREFORE, Plaintiffs demand judgment against Defendant PRINCESS for damages suffered as result of their negligence and a trial by jury on all issues triable.

COUNT II

(GROSS NEGLIGENCE AGAINST DEFENDANT PRINCESS)

Plaintiff re-alleges all allegations set out in paragraphs 1 through 19 above as if alleged fully herein.

20. Defendant Princess' conduct in deciding to continue to sail the Ruby Princess with Plaintiffs, knowing that the ship was infected from a prior voyage and prior crew members who came down with symptoms of COVID-19, on board with plaintiffs, shows a lack of any care on the part of Defendant, amounting to gross negligence. Defendant knew how dangerous it was to expose Plaintiffs and the rest of its passengers to COVID-19 in light of its experience with the Diamond Princess and two sailings on the Grand Princess, and yet it departed from what a reasonably careful cruise line would do under the circumstances in continuing to sail with Plaintiffs.

21. Moreover, Defendant's conduct in failing to warn Plaintiffs of their actual risk of harm in being exposed to COVID-19, either prior to boarding or while they were already onboard, in light of prior passengers and crew members, who came down with symptoms from the prior voyage, amounts to an extreme departure of a what a reasonably careful cruise line would do, in light of that fact that Plaintiffs, are elderly.

22. Defendant PRINCESS chose to place profits over the safety of its passengers, crew and the general public in continuing to operate business as usual, despite their knowledge of the actual risk of injury to Plaintiffs, who are elderly.

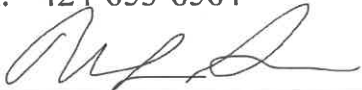
WHEREFORE, Plaintiffs demand judgment against PRINCESS including punitive damages suffered as a result of the alleged gross negligence on Defendant, and a trial by jury on all issues triable.

DEMAND FOR JURY TRIAL

The Plaintiffs hereby demand trial by jury of all issues so triable of right.

DATED this 9th day of April, 2020.

Michael A. Simmrin
SIMMRIN LAW GROUP
3500 W. Olive Avenue/Ste. 300
Burbank, CA 91505
Tel.: 818-827-7171
Fax: 424-653-6564

By 
MICHAEL A. SIMMRIN
California Bar No.238092

Debi F. Chalik (Pro Hac Vice Pending)
CHALIK AND CHALIK, P.A.
Attorneys for Plaintiff
10063 N. W. 1st Court
Plantation, Florida 33324
Tel.: (954) 476-1000
Fax: (954) 472-1173

By 
DEBI F. CHALIK
Florida Bar No. 179566

1 **THE LAL-HARRIS LAW GROUP**
2 **Hari S. Lal, Esq.** [SBN: 141031]
3 **Thomas L.D. Edwards, Esq.** [SBN: 152630]
4 1020 South Anaheim Boulevard # 202
5 Anaheim, CA 92805
6 Telephone: (714) 635-1646
7 Facsimile: (714) 635-2457

8 Attorneys for Bhopinder Dhillon; Reena Dhillon; Anita Pampalon; Richard Pampalon;
9 Sangita Lal; Raj Lal; Jack Sekhon; Praveena Giannoulis

10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 Bhopinder Dhillon; Reena Dhillon; Anita
13 Pampalon; Richard Pampalon; Sangita
14 Lal; Raj Lal; Jack Sekhon; Praveena
15 Giannoulis

16 Plaintiffs,

17 vs.

18 **PRINCESS CRUISE LINES LTD.,**
19 **and DOES 1 through 50, inclusive.**

20 Defendants.

Case No.

COMPLAINT FOR

- 1) NEGLIGENT**
- 2) GROSS NEGLIGENCE**

DEMAND FOR JURY TRIAL

I.

PLAINTIFFS' COMPLAINT
AND JURY DEMAND

21 Plaintiffs, Bhopinder Dhillon; Reena Dhillon; Anita Pampalon; Richard
22 Pampalon; Asif Gil; Sangita Lal; Raj Lal; Jack Sekhon; Praveena Giannoulis, by
23 and through their undersigned counsel, hereby sues Defendant, PRINCESS
24 CRUISE LINES LTD. (hereinafter, "PRINCESS"), and alleges as follows:
25
26
27
28 has suffered damages to be offered for proof.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

II.
JURISDICTION AND VENUE

1. This is an action seeking damages in excess of \$1,000,000.00 (One Million Dollars) exclusive of interest, costs and attorney's fees.

2. This Court has diversity subject matter jurisdiction pursuant to 28 U.S.C. § 1332 as this is a civil action in which the matter in controversy exceeds the sum or value of \$100,000, exclusive of interest and costs, and is between citizens of different States and/or citizens of a State and citizens or subjects of a foreign state.

3. This Court also has Admiralty subject matter jurisdiction pursuant to 28 U.S.C. § 1333 as this case involves a maritime tort. The type of incident and injuries suffered by Plaintiffs had the potential to impact maritime commerce as Plaintiffs were at serious risk of imminent harm as a result of being exposed to the Coronavirus running rampant aboard the cruise ship upon which he was a paying passenger.

4. The Court has general personal jurisdiction over PRINCESS as PRINCESS's principal place of business is in Los Angeles County, California as such PRINCESS is "at home" in California for purposes of any exercise of personal jurisdiction. In addition, PRINCESS conducts substantial business within the state of California, including operating cruises from ports in San Francisco, San Diego, and Los Angeles. PRINCESS markets cruise vacations to California residents and employs thousands of California residents to work at its California headquarters.

5. It was foreseeable at all times that PRINCESS could be hauled into court in the State of California for conduct that caused injuries; in fact, PRINCESS's Passenger Contract requires claimants like Plaintiffs in this action, to bring suit to vindicate personal injury claims in the United States District Court for the Central District of California.

6. At all times hereto, PRINCESS CRUISES as the parent company entity unknown owned and operated the cruise ship the Grand Princess hereinafter

1 ‘Grand Princess and Princess are commonly referred to as ‘PRINCESS or
2 Defendants’. On February 11th, 2020 Plaintiffs were passengers aboard the Grand
3 Princess that departed out of San Francisco to Puerto Vallarta, Mexico commonly
4 known as the ‘Mexican Riviera Cruise’ and was anchored off the coast of San
5 Francisco from February 26th- March 4th, 2020, because of an outbreak of COVID.

6 7. The exercise of personal jurisdiction over PRINCESS by this Court
7 comports with due process and is consistent with traditional notions of fair play and
8 substantial justice and the Passage contract between plaintiffs and CRUISE.

9 **III.**
10 **PARTIES**

11 8. Plaintiffs who were passengers and boarded Grand Princess ‘CRUISE’
12 from San Francisco on February 11th, 2020 and disembarked the Cruise on February
13 26th, 2020. Plaintiffs contracted Corona Virus while onboard the Grand Princess. At
14 the time of embarking the CRUISE on February 11th, 2020 none of the plaintiffs had
15 any signs or symptoms of COVID 19 and were in excellent health.

16 9. Bhopinder Dhillon was a passenger onboard the cruise ship on February
17 11th through February 26^h, 2020 on GRAND PRINCESS and contracted COVID 19
18 while onboard. He is a resident of San Jose, California and was within the zone of
19 danger of contracting COVID-19 while onboard.

20 10. Reena Dhillon is a resident of San Jose, California was a passenger
21 onboard the cruise ship, GRAND PRINCESS from February 11th- 26th, 2020 and was
22 within the zone of danger of contracting COVID-19 while onboard.

23 11. Anita Pampalon, a resident of Vancouver, British Columbia, Canada
24 was a passenger onboard the cruise ship, GRAND PRINCESS from February 11th-
25 26th, 2020 and was within the zone of danger of contracting COVID-19 while
26 onboard.

27 12. Richard Pampalon a resident of Vancouver, British Columbia, Canada
28 was a passenger onboard the cruise ship, GRAND PRINCESS from February 11th-

1 26th, 2020 and was within the zone of danger of contracting COVID-19 while
2 onboard.

3 13. Sangita Lal a resident of Surrey, British Columbia, Canada was a
4 passenger onboard the cruise ship, GRAND PRINCESS from February 11th- 26th,
5 2020 and was within the zone of danger of contracting COVID-19 while onboard.

6 14. Raj Lal a resident of Surrey, British Columbia, Canada was a passenger
7 onboard the cruise ship, GRAND PRINCESS from February 11th- 26th, 2020 and was
8 within the zone of danger of contracting COVID-19 while onboard.

9 15. Jack Sekhon, a resident of Surrey, British Columbia, Canada was a
10 passenger onboard the cruise ship, GRAND PRINCESS from February 11th- 26th,
11 2020 and was within the zone of danger of contracting COVID-19 while onboard.

12 16. Praveena Giannoulis, a resident of Surrey, British Columbia, Canada
13 was a passenger onboard the cruise ship, GRAND PRINCESS from February 11th-
14 26th, 2020 and was within the zone of danger of contracting COVID-19 while
15 onboard.

16 17. At all times hereto, PRINCESS 'PRINCESS' owned and operated the
17 cruise ship the Grand Princess 'GRAND PRINCESS or CRUISE'.

18 18. This Court has personal jurisdiction over PRINCESS as PRINCESS'
19 principal place of business is located in Los Angeles County, Los Angeles.

20 19. PRINCESS conducts substantial business within the state of California,
21 including operating cruises from ports in San Francisco, San Diego and Los Angeles.

22 20. Princess Cruise Lines LTD. is incorporated in Bermuda, with its
23 headquarters in Santa Clarita, California. The action is being filed in this Court
24 pursuant to the terms and conditions of the Passenger Contract issued by
25 Defendant, Princess Cruise Lines Ltd dated February 11th, 2020.

26 21. Pursuant to Paragraph 15 of the passage contract between PRINCESS
27 and plaintiffs state in pertinent part that Forum and Jurisdiction for Legal Action
28 shall be US Federal District Court in Los Angeles. Specifically, paragraph 15

1 states that all claims for Injury, Illness or Death or All claims or disputes
2 involving Emotional Harm, bodily injury, illness to or death of any Guest
3 whatsoever, including without limitation those arising out of or relating to this
4 Passage Contract or Your Cruise, shall be litigated in and before the United States
5 District Courts for the Central District of California in Los Angeles, or as to those
6 lawsuits over which the Federal Courts of the United States lack subject matter
7 jurisdiction, before a court located in Los Angeles County, California, U.S.A, to the
8 exclusion of the courts of any other country, state, city, municipality, county or
9 locale. The aforesaid paragraph further compels plaintiffs to 'jurisdiction and waive
10 any objection that may be available to any such action being brought in such
11 courts.'

12 22. Pursuant to Paragraph 14 of the PASSAGE CONTRACT between
13 CRUISE AND plaintiffs state that '...Carrier shall not be liable to the Guest for
14 damages for emotional distress, mental suffering or psychological injury of any
15 kind, under any circumstances, except for such damages proven in a court of
16 competent jurisdiction arising from and attributable to Guest's physical injury or
17 as the result of Guest having been at actual risk of immediate physical injury
18 proximately caused by Carrier's negligence ("Emotional Harm")'.

19 23. Pursuant to Paragraph 15 of the PASSAGE Contract, plaintiffs have
20 duly complied and timely given written NOTICE OF CLAIM within 90 days of the
21 claim. Paragraph 15 states that In cases involving claims for Emotional Harm,
22 bodily injury, illness to or death of any Guest, no lawsuit may be brought against
23 Carrier unless (1) written notice giving full particulars of the claim is delivered to
24 Carrier within 6 months from the date of the Emotional Harm, bodily injury,
25 illness or death, (2) a lawsuit on such a claim is filed within 1 year from the date of
26 the injury, illness or death, and (3) valid service of the lawsuit is made within 90
27 days of filing the complaint.

28

1 24. Pursuant to Paragraph 15 of the Passage Contract all claims other than
2 for Emotional Harm, bodily injury, illness to or death of a Guest, whether based on
3 contract, tort, statutory, constitutional or other legal rights, including without
4 limitation alleged violations of civil rights, discrimination, consumer or privacy
5 laws, or for any losses, damages or expenses, relating to or in any way arising out
6 of or connected with this Passage Contract or Guest's cruise, with the sole
7 exception of claims brought and litigated in small claims court, shall be referred to
8 and resolved exclusively by binding arbitration pursuant to the United Nations
9 Convention on the Recognition and Enforcement of Foreign Arbitral Awards
10 (New York 1958), 21 U.S.T. 2517, 330 U.N.T.S. 3, 1970 U.S.T. LEXIS 115, 9
11 U.S.C. §§ 202-208 ("the Convention") and the Federal Arbitration Act, 9 U.S.C.
12 §1 et seq., ("FAA") located in the County of Los Angeles, California, U.S.A. to the
13 exclusion of any other forum. Plaintiffs agreed that the arbitrator shall resolve any
14 dispute as the validity or applicability of this arbitration clause. Plaintiffs also
15 consented to jurisdiction and waive any objection that may be available to any such
16 arbitration proceeding in Los Angeles County. Additionally, plaintiffs agreed that
17 the arbitration shall be administered by National Arbitration and Mediation
18 ("NAM") under its Comprehensive Dispute Resolution Rules and Procedures and
19 the fee schedule in effect at the time of initiating the proceeding with NAM.

20 25. Plaintiff shall upon discovery of proper facts and truth amend its
21 complaint to allege the claims for Concealment and Fraud and Misrepresentation
22 by the CRUISE for failure to disclose and intentionally misleading plaintiffs to
23 embark the CRUISE for profit reasons are arbitrable claims and within the
24 jurisdiction of the ARBITRATOR under the agreement.

25 26. PRINCESS markets cruise vacations to Californian residents and
26 employs thousands of Californian residents to work at its California headquarters.
27
28

1 IV.

2 **FACTUAL BACKGROUND**

3 27. All facts set forth are based upon knowledge, information, and belief.

4 28. There has been a worldwide outbreak of a new strain of the Corona
5 virus, commonly known as COVID-19. The virus began in China in December
6 2019, and has quickly spread throughout Asia, Europe and most recently, North
7 America. The virus causes temperature, fatigue, a dry cough, loss of appetite, loss
8 of smell and can be fatal especially for people over sixty years of age. There have
9 been over 33,000,000 confirmed cases worldwide and nearly 1,000,000 confirmed
10 deaths of which 220,000 death incurred in USA as result of COVID-19. Along with
11 its prolific ability to cause serious physical harm and (ultimately) death in those
12 who exhibit symptoms of infection, COVID19's impact upon those who have been
13 positively diagnosed but appear asymptomatic in close proximity to their diagnoses
14 is unclear, though at least some studies have suggested long-term complications,
15 including pulmonary deficits, even in asymptomatic individuals. Other long-term signs
16 and symptoms may include: Muscle pain or headache; Fast or pounding heartbeat; Loss
17 of smell or taste; Memory, concentration or sleep problems Rash or hair loss¹.

18 29. Plaintiff to date continue to suffer the long-term implications of Covid 19
19 as indicated above. The hear Imaging tests taken of all plaintiffs' months after recovery
20 from COVID-19 have shown lasting damage to the heart muscle, even in people who
21 experienced only mild COVID-19 symptoms. Plaintiffs have an increase the risk of heart
22 failure or other heart complications in the future.

23 30. Studies have shown that the absence of symptoms does not
24 necessarily imply an absence of harm; the study published in the Annals of Internal
25

26 ¹ CDC; *Watch for symptoms; People with COVID-19 have had a wide range of symptoms reported – ranging from mild*
27 *symptoms to severe illness. Symptoms may appear 2-14 days after exposure to the virus. People with these symptoms*
may have COVID-19; <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>

1 Medicine, in fact, specifically cited to studies of cruise ship passengers who were
2 positive for COVID-19 but asymptomatic, and noted that a significant percentage
3 of those who were tested showed deleterious changes in their lungs.² Whether a
4 person is symptomatic or asymptomatic, the Centers for Disease Control have
5 concluded that “the incubation period (the time from exposure to development of
6 symptoms)” of the virus “ranges from 2-14 days.”²

7 31. COVID-19 really gained the attention of the public when the Diamond
8 Princess Cruise ship, also owned and operated by Defendant, suffered an outbreak of
9 the disease at the beginning of February 2020 in Yokohama, Japan. The outbreak
10 began with ten cases, and rapidly multiplied to seven hundred cases, as a result of
11 the flawed two-week quarantine on the ship. The Center for Disease Control, (CDC)
12 issued a statement on February 18, 2020, that “the rate of new reports of positives
13 new on board, (Diamond Princess), especially among those without symptoms,
14 highlights the high burden of infection on the ship and potential for ongoing risk.”
15 Seven of Defendant’s passengers died as a result of COVID-19³.

16 32. While additional specific details are not yet known, according to the
17 Center for Disease Control and Prevention, crew members from the February 11,
18 2020 voyage of the Grand Princess were infected with the COVID-19 during the
19 February 11, 2020 cruise. And, while the Diamond Princess sat quarantined in
20 Yokohama, Japan due to the COVID19 virus spreading on that ship, infected
21 members of the crew from the February 11, 2020 voyage of the Grand Princess
22 carried the virus with them onto the voyage of the ship that is in question in this
23 litigation.

24 33. Based upon the presence of one asymptomatic passenger who was
25

26 ² Centers for Disease Control, “Clinical Questions about COVID-19: Questions and Answers, Transmission, when is someone
infectious? (available at: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/faq.html#COVID19-Risk>) (Aug. 4, 2020).

27 ³ For Immediate Release: Tuesday, February 18, 2020; Contact: Mediarelations[https://www.cdc.gov/media/releases/2020/s0218-
update-diamond-princess.html](https://www.cdc.gov/media/releases/2020/s0218-update-diamond-princess.html);

1 affirmatively diagnosed with COVID-19 aboard the Defendant's Diamond Princess
2 cruise, PRINCESS put the following preventative and protective measures in place
3 aboard the Diamond Princess almost a month before February 21, 2020 cruise of the
4 Grand Princess.

5 34. Among other things, those measures included: a) communication
6 about social distancing and monitoring of symptoms to passengers, on or about
7 February 3, 2020; b) quarantine of passengers to their cabins, on or about February
8 5, 2020; c) testing for SARS-CoV-2 by reverse transcription-polymerase chain
9 reaction (RT-PCR) of travelers on board with fever or respiratory symptoms and
10 those who had close contact with those passengers, and the disembarkation and
11 hospitalization of all with positive test results; and d) later expansion of testing to
12 support a phased disembarkation of passengers, prioritizing testing of older persons,
13 those with underlying medical conditions, and those in internal cabins with no
14 access to the outdoors.

15 35. One would have expected PRINCESS to use reasonable care and
16 precaution post the CDC press release on Diamond Cruise. Indeed, it would only
17 stand to reason, having experienced such a traumatic outbreak on board one of its
18 vessels less than a month before the voyage in question and having affirmative
19 notice of sick members of the crew of the Grand Princess prior to its departure on
20 February 21, 2020, that PRINCESS would have learned to take all necessary
21 precautions (including regimes similar to those imposed on the Diamond Princess)
22 to keep its passengers, crew, and the general public safe.

23 36. A cruise line is a common carrier in at least some instances, and
24 accordingly owes heightened duties of care to its passengers. Unfortunately,
25 PRINCESS did nothing to protect its passengers or crew.

26 37. Additionally, the Shipping Act of 1984 demands a heightened duty
27 of care when it comes to cruise ships such as PRINCESS. They must ensure that
28 all passengers arrive safely and owe a special duty of care to protect their

1 passengers from criminal attacks.

2 38. The U.S. Shipping Act, was signed into law by President Ronald
3 Reagan on March 20, 1984. The purpose of the Act was to: (1) establish a
4 nondiscriminatory regulatory process for the common carriage of goods by water in the
5 foreign commerce of the United States with a minimum of government intervention and
6 regulatory costs; (2) provide an efficient and economic transportation system in the ocean
7 commerce of the United States that is, insofar as possible, in harmony with, and
8 responsive to, international shipping practices; (3) encourage the development of an
9 economically sound and efficient liner fleet of vessels of the United States capable of
10 meeting national security needs; and (4) promote the growth and development of United
11 States exports through competitive and efficient ocean transportation and by placing a
12 greater reliance on the marketplace.⁴

13 39. Based on information and belief, plaintiffs allege that in fact,
14 prior to the institution of any quarantine on the Grand Princess and while the ship
15 was not allowed to dock on its return to San Francisco: a) COVID-19 tests were
16 flown onto the ship via helicopter to be administered to a portion of the passengers
17 and crew who were suspected to be infected; and b) passengers were informed of a
18 final opportunity to visit the dining facilities prior to a quarantine being instituted.
19 All such information is regarded as or to be protected medical information and
20 cruise liner policy and incident reports under the Uniform Shipping Act of 1984 to
21 which these Plaintiffs do not have specific access, it is generally accepted.

22 40. Plaintiffs while on board were advised by some cruise staff and co-
23 workers that a) there were confirmed cases of COVID-19 on the Grand

24
25 ⁴ *Introduced in the Senate as S. 47 by Slade Gorton (R-WA) on January 26, 1983; Committee consideration by Senate Commerce, Science, and*
26 *Transportation; Passed the Senate on March 1, 1983 (64-33); Passed the House on October 17, 1983 (Passed voice vote); Reported by the joint*
conference committee on February 22, 1984; agreed to by the Senate on February 23, 1984 (74-12) and by the House on March 6, 1984 (Agreed
voice vote); Signed into law by President Ronald W. Reagan on March 20, 1984

1 Princess on the two voyages prior to the voyage on which these plaintiffs travelled,
2 each of which had changes in its itinerary due to the illness of passengers mid-
3 cruise; b) due to cases of COVID-19 on the subject cruise, the itinerary of the cruise
4 was again changed to bring the ship directly back to San Francisco, skipping
5 scheduled stops in Mexico, without the institution of any quarantine of passengers
6 or crew and without the issuance of any type of personal protective equipment to
7 prevent or reduce the spread of the virus. All such information is regarded as or to
8 be protected medical information to which these Plaintiffs do not have specific
9 access, it is generally accepted.

10 41. Based on information and belief, plaintiffs allege that once the
11 CRUISELINER returned to the San Francisco area, the Grand Princess was not
12 allowed to dock and unload passengers or its crew until arrangements for the
13 quarantine for the passengers and crew, once they left the ship, could be
14 provided for. All such information is regarded as or to be protected medical
15 information to which these Plaintiffs do not have specific access, it is generally
16 accepted.

17 42. Based on information and belief, plaintiffs allege that prior to any
18 passenger being allowed to disembark from the ship, a number of passengers and
19 crew members were tested for the COVID-19 virus, and many of those tested
20 positive for the virus. All such information is regarded as or to be protected
21 medical information to which these Plaintiffs do not have specific access, it is
22 generally accepted.

23 43. On January 30th, 2020, the International Health Regulations
24 Emergency Committee of the World Health Organization declared the outbreak a
25 “public health emergency of international concern.” On January 31st, 2020, Health
26 and Human Services Secretary Alex M. Azar II declared a public health emergency
27 for the United States to aid the nation’s health care community in responding to
28 COVID-19. On March 11th, 2020 the WHO declared COVID-19 a pandemic as the

1 number of infected countries grows⁵. This information was readily available and
2 known or should have been known by defendant. Defendant simply chose to ignore
3 this information as the time it boarded the plaintiffs on PRINCESS.

4 44. According to federal regulations, the Center for Disease Control
5 ‘CDC’ requires the master of a ship destined for a U.S. port to report immediately
6 any death or certain illnesses among the ship’s passengers or crew. CDC has
7 outlined below how cruise ships should report deaths and illnesses (non-
8 gastrointestinal) to the Division of Global Migration and Quarantine (DGMQ).
9 Effective March 21st, 2017, the definition of *ill person* under CDC regulations
10 changed. This change, found in 42 Code of Federal Regulations part 71.1, clarifies
11 the list of signs and symptoms that may indicate a person is ill with a
12 communicable disease of public health concern

13 45. On or about February 21st, 2020 which is post five [5] days after
14 embarking the CRUISE, plaintiffs experienced symptoms of fever, headaches,
15 fatigue breathing problems, numbness in his feet and legs, eyesight problems, and
16 contracted the virus while in the cruise. Soon thereafter some of the plaintiffs
17 began to have fever and great weakness while on the cruise.

18 46. Plaintiff Jack Sekhon had no symptoms associated with COVID-19
19 before boarding the Grand Princess on February 16th, 2020 and confirmed that fact
20 for Princess Cruise prior to the ship departing. While the ship was at sea, Mr.
21 Sekhon began experiencing symptoms associated with a COVID-19 infection,
22

23 ⁵ WHO began when our Constitution came into force on 7 April 1948 – a date we now celebrate every year as World Health Day?
24 We are now more than 7000 people from more than 150 countries working in 150 country offices, in 6 regional offices and at our
25 headquarters in Geneva. The World Health Assembly is the decision-making body of WHO. It is attended by delegations from all
26 WHO Member States and focuses on a specific health agenda prepared by the Executive Board. The main functions of the World
27 Health Assembly are to determine the policies of the Organization, appoint the Director-General, supervise financial policies, and
28 review and approve the proposed programme budget. The Health Assembly is held annually in Geneva, Switzerland.
<https://www.who.int/about/governance/world-health-assembly>

1 including fever, chills, sore throat, coughing, headaches, nausea, body aches, which
2 caused him to suffer from an inability to sleep and mild diarrhea. Mr. Sekhon
3 attempted to seek medical help on the CRUISE but due to inadequate staff and
4 insufficient including unqualified medical assistants to deal with symptoms of
5 COVID 19 he was told to take Advil or Tylenol and take rest. He made numerous
6 attempts to seek help from CRUISE staff and was neglected. Mr. Sekhon has been
7 affirmatively diagnosed as COVID-19 positive and experienced the onset of all
8 symptoms consistent with that infection while aboard the Grand Princess. Upon
9 return, Mr. Sekhon was admitted to ICU for approx. 4 weeks and was on life
10 support ventilator for weeks. Mr. Sekhon has suffered major damage to his lungs
11 and heart, skin and hair including speech and nerves and will need lung
12 replacement in the near future. These symptoms relate directly to his exposure to
13 the COVID-19 virus while aboard the Grand Princess, which occurred because
14 Princess failed to adequately diagnose and appropriately quarantine passengers and
15 crew of the Grand Princess during the voyage that began on February 21st, 2020.
16 During his time aboard the ship, Mr. Sekhon was in the presence of other ship
17 passengers and crew who were infected with COVID-19 or who outwardly and
18 obviously exhibited symptoms. Plaintiff contacted these symptoms from a) other
19 passengers in the medical office on the ship where she went for treatment of the
20 above referenced symptoms, b) at least 1 other passenger who appeared ill and was
21 later identified as having COVID 19, and c) exposure to other passengers of the
22 ship and food service staff who visibly appeared to be ill with symptoms consistent
23 with a COVID-19 infection and crew members on board as reported by CDC.
24 Plaintiff Sekhon began experiencing the above-described symptoms consistent with
25 COVID-19 infection per the CDC guidelines and press release, during the 3rd or 4th
26 day that the ship was at sea and while he was on the ship prior to its 1st stop in
27 Mexico that onset date, relative to him initially boarding the vessel is within the 2-
28 to-14-day incubation period for COVID-19. Mr. Sekhon alleges that it was by

1 virtue of the foregoing interactions with passengers and crew of Grand Princess
2 that he incurred symptoms consistent with COVID-19. Indeed, Plaintiff is not
3 aware of having been in close proximity to any other person manifesting COVID-
4 19 symptoms, other than those passengers and members of the crew while aboard
5 the vessel prior to experiencing these symptoms. Princess knew or should have
6 known, via the experiences with the Diamond Princess cruise ship in Japan and the
7 safety measures taken on behalf of the passengers and crew of that vessel that the
8 risk of spread of the COVID-19 virus among passengers and crew was high and
9 that appropriate safety precautions should have been implemented. Princess's
10 failure to adequately diagnose and appropriately quarantine passengers and crew of
11 the Grand Princess during the voyage that began on February 16th, 2020 caused
12 Plaintiff Jack Sekhon's exposure to other passengers and crew who had COVID-19
13 infections or exhibited symptoms of COVID-19 infections. That exposure was a
14 substantial factor in Plaintiff developing symptoms consistent with a COVID-19
15 infection.

16 47. Plaintiff Praveena Giannoulis had no symptoms associated with
17 COVID-19 before boarding the Grand Princess on February 16th, 2020 and
18 confirmed that fact for Princess Cruise prior to the ship departing. While the ship
19 was at sea, Ms. Giannoulis began experiencing symptoms associated with a
20 COVID-19 infection, including fever, chills, sore throat, coughing, headaches,
21 nausea, body aches, fatigue, muscle pains, loss of smell, sore throat, congestion and
22 running nose, which caused her to suffer from an inability to sleep. Ms. Giannoulis
23 has been affirmatively diagnosed as COVID-19 positive and experienced the onset
24 of all symptoms consistent with that infection while aboard the Grand Princess. Ms.
25 Giannoulis was admitted to ICU for approx. 3-4 weeks and was on life support
26 ventilator for weeks. Ms. Giannoulis has suffered major damage to her lungs and heart
27 and will need lung replacement in the future. have symptoms that can last for weeks or
28 even months after recovery from acute illness. Even people who are not hospitalized and

1 who have mild illness can experience persistent or late symptoms. These symptoms
2 relate directly to her exposure to the COVID-19 virus while aboard the Grand Princess,
3 which occurred because Princess failed to adequately diagnose and appropriately
4 quarantine passengers and crew of the Grand Princess during the voyage that began
5 on February 21st, 2020. During her time aboard the ship, Ms. Giannoulis was in the
6 presence of other ship passengers and crew who were infected with COVID-19 or
7 who outwardly and obviously exhibited symptoms. Plaintiff contracted these
8 symptoms from a) other passengers in the medical office on the ship where she
9 went for treatment of the above referenced symptoms, b) at least 1 other passenger
10 who appeared ill and was later identified as having COVID 19, and c) exposure to
11 other passengers of the ship and food service staff who visibly appeared to be ill
12 with symptoms consistent with a COVID-19 infection and crew members on board
13 as reported by CDC. Plaintiff Praveena Giannoulis began experiencing the above-
14 described symptoms consistent with COVID-19 infection, during the 3rd or 4th day
15 that the ship was at sea and while she was on the ship prior to its 1st stop in Mexico
16 that onset date, relative to her initially boarding the vessel is within the 2- to-14-
17 day incubation period for COVID-19. Ms. Giannoulis alleges that it was by virtue
18 of the foregoing interactions with passengers and crew of Grand Princess that she
19 incurred symptoms consistent with COVID-19. Indeed, Plaintiff is not aware of
20 having been in close proximity to any other person manifesting COVID-19
21 symptoms, other than those passengers and members of the crew while aboard the
22 vessel prior to experiencing these symptoms. Princess knew or should have known,
23 via the experiences with the Diamond Princess cruise ship in Japan and the safety
24 measures taken on behalf of the passengers and crew of that vessel that the risk of
25 spread of the COVID-19 virus among passengers and crew was high and that
26 appropriate safety precautions should have been implemented. Princess's failure to
27 adequately diagnose and appropriately quarantine passengers and crew of the
28 Grand Princess during the voyage that began on February 16th, 2020 caused

1 Plaintiff's exposure to other passengers and crew who had COVID-19 infections or
2 exhibited symptoms of COVID-19 infections. That exposure was a substantial
3 factor in Plaintiff developing symptoms consistent with a COVID-19 infection.

4 48. Plaintiff Bhopinder Dhillon no symptoms associated with COVID-19
5 before boarding the Grand Princess on February 16th, 2020 and confirmed that fact
6 for Princess Cruise prior to the ship departing. While the ship was at sea, Mr.
7 Dhillon began experiencing symptoms associated with a COVID-19 infection,
8 including fever, chills, sore throat, coughing, headaches, nausea, body aches, which
9 caused him to suffer from an inability to sleep. Mr Dhillon attempted to seek
10 medical help on the CRUISE but due to inadequate staff and insufficient including
11 unqualified medical assistants to deal with symptoms of COVID 19 he was told to
12 take Advil or Tylenol and take rest. He made numerous attempts to seek help from
13 CRUISE staff and was neglected. Mr. Dhillon has been affirmatively diagnosed as
14 COVID-19 positive and experienced the onset of all symptoms consistent with that
15 infection while aboard the Grand Princess. Mr. Dhillon was admitted to ICU for
16 approx. 3-4 weeks and was on life support ventilator for weeks. Mr. Dhillon has
17 suffered major damage to his lungs and heart and nerves and will need lung
18 replacement or and to date suffers from heart related issues. These symptoms relate
19 directly to his exposure to the COVID-19 virus while aboard the Grand Princess,
20 which occurred because Princess failed to adequately diagnose and appropriately
21 quarantine passengers and crew of the Grand Princess during the voyage that began
22 on February 21st, 2020. During his time aboard the ship, Mr. Dhillon was in the
23 presence of other ship passengers and crew who were infected with COVID-19 or
24 who outwardly and obviously exhibited symptoms. Plaintiff contracted these
25 symptoms from a) other passengers in the medical office on the ship where she
26 went for treatment of the above referenced symptoms, b) at least 1 other passenger
27 who appeared ill and was later identified as having COVID 19, and c) exposure to
28 other passengers of the ship and food service staff who visibly appeared to be ill

1 with symptoms consistent with a COVID-19 infection and crew members on board
2 as reported by CDC. Plaintiff began experiencing the above-described symptoms
3 consistent with COVID-19 infection, during the 3rd or 4th day that the ship was at
4 sea and while he was on the ship prior to its 1st stop in Mexico that onset date,
5 relative to his initially boarding the vessel is within the 2- to-14-day incubation
6 period for COVID-19. Mr. Dhillon alleges that it was by virtue of the foregoing
7 interactions with passengers and crew of Grand Princess that she incurred
8 symptoms consistent with COVID-19. Indeed, Plaintiff is not aware of having been
9 in close proximity to any other person manifesting COVID-19 symptoms, other
10 than those passengers and members of the crew while aboard the vessel prior to
11 experiencing these symptoms. Princess knew or should have known, via the
12 experiences with the Diamond Princess cruise ship in Japan and the safety
13 measures taken on behalf of the passengers and crew of that vessel that the risk of
14 spread of the COVID-19 virus among passengers and crew was high and that
15 appropriate safety precautions should have been implemented. Princess's failure to
16 adequately diagnose and appropriately quarantine passengers and crew of the
17 Grand Princess during the voyage that began on February 16th, 2020 caused
18 Plaintiff's exposure to other passengers and crew who had COVID-19 infections or
19 exhibited symptoms of COVID-19 infections. That exposure was a substantial
20 factor in Plaintiff developing symptoms consistent with a COVID-19 infection.

21 49. Plaintiff Reena Dhillon no symptoms associated with COVID-19
22 before boarding the Grand Princess on February 16th, 2020 and confirmed that fact
23 for Princess Cruise prior to the ship departing. Ms. Dhillon was very ill on the
24 CRUISE experiencing shortness of breath and asked for help, but none was
25 provided. Ms. Dhillon attempted to seek medical help on the CRUISE but due to
26 inadequate staff and insufficient including unqualified medical assistants to deal
27 with symptoms of COVID 19 he was told to take Advil or Tylenol and take rest.
28 He made numerous attempts to seek help from CRUISE staff and was neglected.

1 While the ship was at sea, Ms. Dhillon began experiencing symptoms associated
2 with a COVID-19 infection, including fever, chills, sore throat, coughing,
3 headaches, nausea, body aches, which caused him to suffer from an inability to
4 sleep. Ms. Dhillon has been affirmatively diagnosed as COVID-19 positive and
5 experienced the onset of all symptoms consistent with that infection while aboard
6 the Grand Princess. Ms. Dhillon was admitted to ICU for approx. 3-4 weeks and
7 was on life support ventilator for weeks. Ms. Dhillon has suffered major damage to
8 his lungs and heart and will need lung replacement in the near future. To this date
9 she continues to suffer from shortness of breath, skin problems, hair loss, memory
10 deficiency and leg cramps and numbness. These symptoms relate directly to her
11 exposure to the COVID-19 virus while aboard the Grand Princess, which occurred
12 because Princess failed to adequately diagnose and appropriately quarantine
13 passengers and crew of the Grand Princess during the voyage that began on
14 February 21st, 2020. During her time aboard the ship, Ms. Dhillon was in the
15 presence of other ship passengers and crew who were infected with COVID-19 or
16 who outwardly and obviously exhibited symptoms. Plaintiff Reena Dhillon
17 contacted these symptoms from a) other passengers in the medical office on the
18 ship where she went for treatment of the above referenced symptoms, b) at least 1
19 other passenger who appeared ill and was later identified as having COVID 19, and
20 c) exposure to other passengers of the ship and food service staff who visibly
21 appeared to be ill with symptoms consistent with a COVID-19 infection and crew
22 members on board as reported by CDC. Plaintiff began experiencing the above-
23 described symptoms consistent with COVID-19 infection, during the 3rd or 4th day
24 that the ship was at sea and while she was on the ship prior to its 1st stop in Mexico
25 that onset date, relative to her initially boarding the vessel is within the 2- to-14-
26 day incubation period for COVID-19. Mr. Dhillon alleges that it was by virtue of
27 the foregoing interactions with passengers and crew of Grand Princess that she
28 incurred symptoms consistent with COVID-19. Indeed, Plaintiff is not aware of

1 having been in close proximity to any other person manifesting COVID-19
2 symptoms, other than those passengers and members of the crew while aboard the
3 vessel prior to experiencing these symptoms. Princess knew or should have known,
4 via the experiences with the Diamond Princess cruise ship in Japan and the safety
5 measures taken on behalf of the passengers and crew of that vessel that the risk of
6 spread of the COVID-19 virus among passengers and crew was high and that
7 appropriate safety precautions should have been implemented. Princess's failure to
8 adequately diagnose and appropriately quarantine passengers and crew of the
9 Grand Princess during the voyage that began on February 16th, 2020 caused
10 Plaintiff's exposure to other passengers and crew who had COVID-19 infections or
11 exhibited symptoms of COVID-19 infections. That exposure was a substantial
12 factor in Plaintiff developing symptoms consistent with a COVID-19 infection.

13 50. Plaintiff Raj Lal had no symptoms associated with COVID-19 before
14 boarding the Grand Princess on February 16th, 2020 and confirmed that fact for
15 Princess Cruise prior to the ship departing. While the ship was at sea, Mr. Raj Lal
16 began experiencing symptoms associated with a COVID-19 infection, including
17 fever, chills, sore throat, coughing, headaches, nausea, body aches, which caused
18 him to suffer from an inability to sleep. Mr. Lal has been affirmatively diagnosed
19 as COVID-19 positive and experienced the onset of all symptoms consistent with
20 that infection while aboard the Grand Princess. Mr. Lal was extremely sick for
21 approx. 4 weeks. These symptoms relate directly to her exposure to the COVID-19
22 virus while aboard the Grand Princess, which occurred because Princess failed to
23 adequately diagnose and appropriately quarantine passengers and crew of the
24 Grand Princess during the voyage that began on February 21st, 2020. During his
25 time aboard the ship, Mr. Lal was in the presence of other ship passengers and crew
26 who were infected with COVID-19 or who outwardly and obviously exhibited
27 symptoms. Plaintiff contacted these symptoms from a) other passengers in the
28 medical office on the ship where she went for treatment of the above referenced

1 symptoms, b) at least 1 other passenger who appeared ill and was later identified as
2 having COVID 19, and c) exposure to other passengers of the ship and food service
3 staff who visibly appeared to be ill with symptoms consistent with a COVID-19
4 infection and crew members on board as reported by CDC. Plaintiff began
5 experiencing the above-described symptoms consistent with COVID-19 infection,
6 during the 3rd or 4th day that the ship was at sea and while she was on the ship
7 prior to its 1st stop in Mexico that onset date, relative to his initially boarding the
8 vessel is within the 2- to-14-day incubation period for COVID-19. Mr. Lal alleges
9 that it was by virtue of the foregoing interactions with passengers and crew of
10 Grand Princess that she incurred symptoms consistent with COVID-19. Indeed,
11 Plaintiff is not aware of having been in close proximity to any other person
12 manifesting COVID-19 symptoms, other than those passengers and members of the
13 crew while aboard the vessel prior to experiencing these symptoms. Princess knew
14 or should have known, via the experiences with the Diamond Princess cruise ship
15 in Japan and the safety measures taken on behalf of the passengers and crew of that
16 vessel that the risk of spread of the COVID-19 virus among passengers and crew
17 was high and that appropriate safety precautions should have been implemented.
18 Princess's failure to adequately diagnose and appropriately quarantine passengers
19 and crew of the Grand Princess during the voyage that began on February 16th,
20 2020 caused Plaintiff's exposure to other passengers and crew who had COVID-19
21 infections or exhibited symptoms of COVID-19 infections. That exposure was a
22 substantial factor in Plaintiff developing symptoms consistent with a COVID-19
23 infection.

24 51. Plaintiff Sangita Lal had no symptoms associated with COVID-19
25 before boarding the Grand Princess on February 16th, 2020 and confirmed that fact
26 for Princess Cruise prior to the ship departing. While the ship was at sea, Ms.
27 Sangita Lal began experiencing symptoms associated with a COVID-19 infection,
28 including fever, chills, sore throat, coughing, headaches, nausea, body aches, which

1 caused him to suffer from an inability to sleep. Ms. Sangita Lal has been
2 affirmatively diagnosed as COVID-19 positive and experienced the onset of all
3 symptoms consistent with that infection while aboard the Grand Princess. Ms. Lal
4 was extremely sick for approx. 4 weeks. These symptoms relate directly to her
5 exposure to the COVID-19 virus while aboard the Grand Princess, which occurred
6 because Princess failed to adequately diagnose and appropriately quarantine
7 passengers and crew of the Grand Princess during the voyage that began on
8 February 21st, 2020. During her time aboard the ship, Ms. Lal was in the presence
9 of other ship passengers and crew who were infected with COVID-19 or who
10 outwardly and obviously exhibited symptoms. Plaintiff contacted these symptoms
11 from a) other passengers in the medical office on the ship where she went for
12 treatment of the above referenced symptoms, b) at least 1 other passenger who
13 appeared ill and was later identified as having COVID 19, and c) exposure to other
14 passengers of the ship and food service staff who visibly appeared to be ill with
15 symptoms consistent with a COVID-19 infection and crew members on board as
16 reported by CDC. Plaintiff began experiencing the above-described symptoms
17 consistent with COVID-19 infection, during the 3rd or 4th day that the ship was at
18 sea and while she was on the ship prior to its 1st stop in Mexico that onset date,
19 relative to her initially boarding the vessel is within the 2- to-14-day incubation
20 period for COVID-19. Ms. Lal alleges that it was by virtue of the foregoing
21 interactions with passengers and crew of Grand Princess that she incurred
22 symptoms consistent with COVID-19. Indeed, Plaintiff is not aware of having been
23 in close proximity to any other person manifesting COVID-19 symptoms, other
24 than those passengers and members of the crew while aboard the vessel prior to
25 experiencing these symptoms. Princess knew or should have known, via the
26 experiences with the Diamond Princess cruise ship in Japan and the safety
27 measures taken on behalf of the passengers and crew of that vessel that the risk of
28 spread of the COVID-19 virus among passengers and crew was high and that

1 appropriate safety precautions should have been implemented. Princess's failure to
2 adequately diagnose and appropriately quarantine passengers and crew of the
3 Grand Princess during the voyage that began on February 16th, 2020 caused
4 Plaintiff's exposure to other passengers and crew who had COVID-19 infections or
5 exhibited symptoms of COVID-19 infections. That exposure was a substantial
6 factor in Plaintiff developing symptoms consistent with a COVID-19 infection.

7 52. Plaintiff Richard Pampalon had no symptoms associated with
8 COVID-19 before boarding the Grand Princess on February 16th, 2020 and
9 confirmed that fact for Princess Cruise prior to the ship departing. While the ship
10 was at sea, Mr. Pampalon Lal began experiencing symptoms associated with a
11 COVID-19 infection, including fever, chills, sore throat, coughing, headaches,
12 nausea, body aches, which caused him to suffer from an inability to sleep. Mr.
13 Pampalon has been affirmatively diagnosed as COVID-19 positive and experienced
14 the onset of all symptoms consistent with that infection while aboard the Grand
15 Princess. Mr. Pampalon was extremely sick for approx. 4 weeks. These symptoms
16 relate directly to his exposure to the COVID-19 virus while aboard the Grand
17 Princess, which occurred because Princess failed to adequately diagnose and
18 appropriately quarantine passengers and crew of the Grand Princess during the
19 voyage that began on February 21, 2020. During his time aboard the ship, Mr.
20 Pampalon was in the presence of other ship passengers and crew who were infected
21 with COVID-19 or who outwardly and obviously exhibited symptoms. Plaintiff
22 contacted these symptoms from a) other passengers in the medical office on the
23 ship where she went for treatment of the above referenced symptoms, b) at least 1
24 other passenger who appeared ill and was later identified as having COVID 19, and
25 c) exposure to other passengers of the ship and food service staff who visibly
26 appeared to be ill with symptoms consistent with a COVID-19 infection and crew
27 members on board as reported by CDC. Plaintiff began experiencing the above-
28 described symptoms consistent with COVID-19 infection, during the 3rd or 4th day

1 that the ship was at sea and while she was on the ship prior to its 1st stop in Mexico
2 that onset date, relative to his initially boarding the vessel is within the 2- to-14-day
3 incubation period for COVID-19. Mr. Pampalon alleges that it was by virtue of the
4 foregoing interactions with passengers and crew of Grand Princess that she
5 incurred symptoms consistent with COVID-19. Indeed, Plaintiff is not aware of
6 having been in close proximity to any other person manifesting COVID-19
7 symptoms, other than those passengers and members of the crew while aboard the
8 vessel prior to experiencing these symptoms. Princess knew or should have known,
9 via the experiences with the Diamond Princess cruise ship in Japan and the safety
10 measures taken on behalf of the passengers and crew of that vessel that the risk of
11 spread of the COVID-19 virus among passengers and crew was high and that
12 appropriate safety precautions should have been implemented. Princess's failure to
13 adequately diagnose and appropriately quarantine passengers and crew of the
14 Grand Princess during the voyage that began on February 16th, 2020 caused
15 Plaintiff's exposure to other passengers and crew who had COVID-19 infections or
16 exhibited symptoms of COVID-19 infections. That exposure was a substantial
17 factor in Plaintiff developing symptoms consistent with a COVID-19 infection.

18 53. Plaintiff Anita Pampalon had no symptoms associated with COVID-
19 19 before boarding the Grand Princess on February 16th, 2020 and confirmed that
20 fact for Princess Cruise prior to the ship departing. While the ship was at sea, Ms.
21 Pampalon began experiencing symptoms associated with a COVID-19 infection,
22 including fever, chills, sore throat, coughing, headaches, nausea, body aches, which
23 caused him to suffer from an inability to sleep. Ms. Pampalon has been
24 affirmatively diagnosed as COVID-19 positive and experienced the onset of all
25 symptoms consistent with that infection while aboard the Grand Princess. Ms.
26 Pampalon was extremely sick for approx. 4 weeks. These symptoms relate directly
27 to her exposure to the COVID-19 virus while aboard the Grand Princess, which
28 occurred because Princess failed to adequately diagnose and appropriately

1 quarantine passengers and crew of the Grand Princess during the voyage that began
2 on February 21, 2020. During her time aboard the ship, Ms. Pampalon was in the
3 presence of other ship passengers and crew who were infected with COVID-19 or
4 who outwardly and obviously exhibited symptoms. Plaintiff contacted these
5 symptoms from a) other passengers in the medical office on the ship where she
6 went for treatment of the above referenced symptoms, b) at least 1 other passenger
7 who appeared ill and was later identified as having COVID 19, and c) exposure to
8 other passengers of the ship and food service staff who visibly appeared to be ill
9 with symptoms consistent with a COVID-19 infection and crew members on board
10 as reported by CDC. Plaintiff began experiencing the above-described symptoms
11 consistent with COVID-19 infection, during the 3rd or 4th day that the ship was at
12 sea and while she was on the ship prior to its 1st stop in Mexico that onset date,
13 relative to her initially boarding the vessel is within the 2- to-14-day incubation
14 period for COVID-19. Ms. Pampalon alleges that it was by virtue of the foregoing
15 interactions with passengers and crew of Grand Princess that she incurred
16 symptoms consistent with COVID-19. Indeed, Plaintiff is not aware of having been
17 in close proximity to any other person manifesting COVID-19 symptoms, other
18 than those passengers and members of the crew while aboard the vessel prior to
19 experiencing these symptoms. Princess knew or should have known, via the
20 experiences with the Diamond Princess cruise ship in Japan and the safety
21 measures taken on behalf of the passengers and crew of that vessel that the risk of
22 spread of the COVID-19 virus among passengers and crew was high and that
23 appropriate safety precautions should have been implemented. Princess's failure to
24 adequately diagnose and appropriately quarantine passengers and crew of the
25 Grand Princess during the voyage that began on February 16th, 2020 caused
26 Plaintiff's exposure to other passengers and crew who had COVID-19 infections or
27 exhibited symptoms of COVID-19 infections. That exposure was a substantial
28 factor in Plaintiff developing symptoms consistent with a COVID-19 infection.

1 54. Immediately upon disembarking the CRUISE, plaintiffs upon
2 contacting medical help, quarantined themselves.

3 55. Prior to embarking on the CRUISE, Plaintiffs were not aware of
4 having been in close proximity to any other person manifesting COVID-19
5 symptoms, other than those passengers and members of the crew while aboard the
6 vessel prior to experiencing these symptoms or at any time prior to him having the
7 COVID-19 symptoms.

8 56. No sooner upon disembarking the Cruise on February 26th, 2020
9 and post self-quarantine for several days, plaintiffs medical conditions
10 deteriorated and were admitted to the hospital in Intensive Care Unit 'ICU' for
11 approx. Four [4] weeks. Plaintiffs were diagnosed for having contacted Corona
12 Virus while on the CRUISE. While in the ICU, Plaintiffs were on 'life and death'
13 situation but finally in late May 2020 and was quarantined at home for
14 approximately two [2] months thereafter. Upon regular checkup plaintiffs were
15 tested negative time and again and was confined to his home and quarantined
16 therein for months.

17 57. Even though plaintiffs tested positive for months, they finally
18 recovered and tested negative but their current medical conditions have
19 deteriorated and continues to have the following medical conditions which are
20 permanent and may require surgery of Lung replacement in the future along with
21 Heart conditions and Kidney issues. Despite being tested negative post
22 hospitalization for approx. 2 months, plaintiffs continue to suffer from the
23 following medical conditions and symptoms; the prognosis and diagnosis are as
24 follows.

25 a) Headaches, fatigue breathing problems, numbness in his feet and legs,
26 eyesight, lungs and heart.

27 b) Plaintiffs experienced short term symptoms of Fatigue; Shortness of
28 breath and Cough; Joint pain and Chest pain

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- c) Similarly, plaintiffs are experiencing long-term signs and symptoms of Muscle pain or headache; Fast or pounding heartbeat; Loss of smell or taste; Memory, concentration or sleep problems and including but limited to Rash or hair loss.
- d) Although plaintiffs suffered lungs issues, they also encountered other health related issues including other organs.
- e) Plaintiffs continue to suffer Heart issues and have shown months after recovery from COVID-19 lasting damage to the heart muscle, even in those plaintiffs who experienced only mild COVID-19 symptoms. Each one of the plaintiffs have been advised by their physicians that they shall face an increase the risk of heart failure or other heart complications in the future.
- f) Plaintiffs continue to suffer **Lungs problems**. Plaintiffs had pneumonia which was diagnosed to have been often associated with COVID-19 and has caused long-standing damage to the tiny air sacs known as alveoli in the lungs. As a result of this, plaintiffs are informed by their physicians that the resulting scar tissue can lead to long-term breathing problems which they continue to experience.
- g) Plaintiffs Bhopinder Dhillon and Reena Dhillon including Plaintiffs SHEKON and Plaintiff Giannoulis have issues related to Brain Complications and Mood problems. Each one of these plaintiffs were hospitalized in ICU unit for approx. 4-6 weeks prior to any recovery or being tested negative. These plaintiffs have been advised by their treating physicians and their medical experts treating them that COVID-19 can cause strokes, seizures, and Guillain-Barre syndrome — a condition that causes temporary paralysis and COVID-19 may also increase the risk of developing Parkinson's disease and Alzheimer's disease
- h) Plaintiffs Bhopinder Dhillon and Reena Dhillon including Plaintiffs SHEKON and Plaintiff Giannoulis have issues related Blood clots and blood vessel problems. Medical experts treating them have advised them that COVID-19 can make blood cells more likely to clump up and form clots resulting in heart attacks and strokes and that much of the heart damage caused by COVID-19 is believed to stem from small clots that block tiny blood vessels (capillaries) in the heart muscle. Plaintiffs named above have been affected by blood clots include the lungs, legs, liver and kidneys and have been diagnosed of weaken blood vessels and cause them to leak, which contributes to potentially long-lasting problems with the liver and kidneys

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

i) Plaintiffs till to this date suffer severely from Problems with mood and fatigue. Plaintiffs were treated in a hospital's intensive care unit, with mechanical assistance such as ventilators to breathe. As a result of this they have been advised by the medical experts and their treating physicians that simply surviving this experience of ventilators can make plaintiffs more likely to later develop post-traumatic stress syndrome, depression and anxiety. Plaintiffs continue to suffer long-term outcomes from the new COVID-19 virus related viruses, such as the virus that causes severe acute respiratory syndrome (SARS).

j) Plaintiffs who have recovered and or are recovering from COVID 19 have gone on to develop chronic fatigue syndrome, a complex disorder characterized by extreme fatigue that worsens with physical or mental activity but doesn't improve with rest.

58. Plaintiffs continue to suffer from extreme anxiety due to the long term physiological, neurological and respiratory effects that COVID-19 virus.

V.

CHAIN OF EVENTS PRIOR AND POST EMBARKMENT

59. None of the plaintiffs had any sign or symptoms prior to boarding the Cruise of February 16th, 2020. As a matter of fact, plaintiffs had visited their primary physicians prior to boarding the CRUISE on February 16th, 2020 and NONE had any signs or symptoms as mentioned above. Furthermore, within the proximity of five [5] days prior to boarding the CRUISE on February 16th, 2020, none of the plaintiffs had shown any sign or symptoms of Covid 19 as mentioned above.

60. No sooner upon embarkment on February 26th, 2020 at the Port of San Francisco, plaintiffs were immediately infected with Corona Virus and showed extreme symptoms of fever, fatigue, weakness and numbness in her legs and feet, and loss of smell.

1 61. Upon returning home from the CRUISE each one of the plaintiffs
2 were quarantined and later while were admitted to the ICU for serious infection of
3 the various and other medical related issues.

4 62. Plaintiffs were not aware of having been in close proximity to any
5 other person manifesting COVID-19 symptoms, other than those passengers and
6 members of the crew while aboard the vessel prior to experiencing these symptoms
7 or at any time prior to him having the COVID-19 symptoms.

8 63. Plaintiffs did not receive any phone calls or messages from any
9 other person with whom they were in close contact with prior to boarding the
10 CRUISE that either had symptoms of COVID 19 or were infected with the virus.
11 Post the CRUISE plaintiffs diligently inquired from all persons they were in close
12 contact with before boarding the CRUISE and none have indicated of any COVID
13 19 symptoms or having either the Virus.

14

15

VI.

16

PRINCESS CREATING THE ZONE OF DANGER

17

18

19

20

64. Princess created a Zone of Danger on the Cruise by subjecting the
plaintiffs who sustained a physical impact as a result of a defendant's negligent conduct
and also by subjecting plaintiffs who are placed in immediate risk of physical harm by
Defendant's conduct as follows.

21

22

23

24

25

26

27

28

- a) Knowing or should have known that on January 30, 2020, which is sixteen days prior to embarking Cruise, the WHO declared an INTERNATIONAL EMERGENCY and advised the outbreak of COVID 19 as a very serious virus that could lead to a Pandemic. This information was readily available and known or should have been known by defendant. Defendant simply chose to ignore this information as the time it boarded the plaintiffs on PRINCESS and by ignoring the serious nature of the warning and International Emergency from WHO, Princess created a Xone of Danger for the Plaintiffs on board the Cruise.

- 1 b) Thereafter on March 3rd, 2020 the WHO declared COVID 19 a
2 Pandemic. Once again, this information was readily available and
3 known or should have been known by defendant. Defendant
4 simply chose to ignore this information as the time it boarded the
5 plaintiffs on PRINCESS and by ignoring the serious nature of the
6 warning and International Emergency from WHO, Princess
7 created a Zone of Danger for the Plaintiffs on board the Cruise.
- 8 c) knowing or should have known, via the experiences with the
9 Diamond Princess Cruise ship in Japan and the safety measures
10 taken on behalf of the passengers and crew of that vessel, that the
11 risk of spread of the COVID-19 virus among passengers and crew
12 was high and that appropriate safety precautions should have been
13 implemented.
- 14 d) Plaintiffs were passengers aboard the *Grand Princess*. Defendant, as
15 the operator of the *Grand Princess*, owed a duty to Plaintiffs to
16 ensure that they would not be exposed to unreasonable risk of harm.
17 Defendant breached this duty. by failing to take necessary
18 precautions to keep its passengers, crew, and the public safe.
- 19 e) *Grand Princess* embarked for Hawaii on February 21, there were 62
20 passengers on board who had also been on the ship's prior voyage to
21 Mexico. Defendant knew that at least two of the passengers on the
22 Mexico voyage disembarked on February 21 with symptoms of
23 COVID-19. Indeed, on February 25, Defendant sent emails to
24 passengers who were on the Mexico voyage notifying them of their
25 potential exposure to COVID-19. Nevertheless, Defendant
26 proceeded with the Hawaii voyage, despite the risk of further
27 infection on the ship. Defendant also failed to warn Plaintiffs about
28 their potential exposure to the virus
- f) Defendant also failed to employ proper screening protocols for COVID-19 before boarding on the Hawaii voyage. Before boarding on February 21, passengers were simply asked to fill out a form confirming they were not sick. Passengers were not questioned or examined, even though another one of Defendant's ships, the *Diamond Princess*, suffered a severe outbreak of COVID-19 three weeks prior.
- g) Princess's failure to adequately diagnose and appropriately quarantine passengers and crew of the *Grand Princess* during the voyage that began on February 21st, 2020 caused Plaintiffs' exposure to other passengers and crew who had COVID-19

1 infections or exhibited symptoms of COVID-19 infections.
2 Plaintiff continues to suffer from extreme anxiety due to having
3 been exposed to the COVID19 virus, and from the knowledge of
4 the long term physiological, and neurological effects that COVID-
19 virus would have caused.

- 5 h) Knowing in fact that COVID 19 had infected prior cruise liners and same
6 CRUISE was infected with the Virus on Voyage from Hawaii to SF Port
7 leading to the death of several passengers, plaintiffs failed to implement
8 social distancing on the CRUISE while crowds of elderly guests filed to
9 their cabins through narrow hallways and down the stairs of the ship's
10 decks. The CRUISE lacked any signs whatsoever regarding social
11 distancing and Face Mask. By their own failure Plaintiffs created the
12 zone of danger with regards to COVID 19
- 13 i) Furthermore, knowing in fact that COVID 19 had infected prior cruise
14 liners and same CRUISE was infected with the Virus on Voyage from
15 Hawaii to SF Port leading to the death of several passengers, Defendant's
16 elevator was packed with fellow passengers and so were its
17 Restaurants, Bars, Music and Concert Auditorium along with
18 recreational facilities and Hallway which apparently did not carry any
19 signs of Social Distancing and or enforcement of social distancing by
20 Defendant.
- 21 j) When plaintiffs developed fever and nausea including vomiting and leg
22 cramps, defendant's lacked qualified medical staff and facility on board
23 to immediately attend to their medical needs. As a matter of fact, the
24 Hospital on board was severely understaff and had one nurse and a
25 family physician attending to approx. 1400 passengers and plaintiffs
26 were turned away numerous times to seek medical help due to
overcrowding in the hospital lobby area.
- 27 k) Despite plaintiffs repeated requests to have their meals served in the
28 cabin due to their continued medical conditions on the CRUISE,
defendants created a further Zone of Danger by refusal of service and
subjected plaintiffs to dinning facility with approx. 500 guests or so
without any social distancing or enforcement or safety procedures.
- l) To aggravate the existing zone of danger with regards to the spread of
COVID 19 on the CRUISE, defendants negligently allowed its crew
and staff infected with virus to serve food in its dining area.
- m) To add insult to injury, defendant further subjected and aggravated the
existing zone of danger on the CRUISE by allowing approx. 1400
passengers to exit the Cruise by close 'line up' or group like 'herd of

1 turtles' while some passenger infected with the Virus subjected
2 plaintiffs to further risk of physical harm.

3 65. Plaintiffs symptoms indeed manifest all the symptom of the feared disease
4 commonly known as COVID 19.

5 66. Although plaintiffs currently have no symptoms of the virus, they
6 continues to suffer from extreme anxiety due to the long term physiological,
7 neurological, and respiratory effects that COVID-19 virus. Some of the plaintiffs
8 are likely candidates for Lung and Heart replacement while other others suffer
9 serious neurological defects and impairments.

10 67. Plaintiffs were not aware of having been in close proximity to any
11 other person manifesting COVID-19 symptoms, other than those passengers and
12 members of the crew while aboard the vessel prior to experiencing these symptoms
13 or at any time prior to her having the COVID-19 symptoms.

14 68. Princess knew or should have known, via the experiences with the
15 Diamond Princess Cruise ship in Japan and the safety measures taken on behalf of
16 the passengers and crew of that vessel, that the risk of spread of the COVID-19
17 virus among passengers and crew was high and that appropriate safety precautions
18 should have been implemented.

19 69. Princess's failure to adequately diagnose and appropriately
20 quarantine passengers and crew of the Grand Princess during the voyage that
21 began on February 21st, 2020 caused Plaintiffs' exposure to other passengers and
22 crew who had COVID-19 infections or exhibited symptoms of COVID-19
23 infections. Plaintiff continues to suffer from extreme anxiety due to having been
24 exposed to the COVID19 virus, and from the knowledge of the long term
25 physiological, and neurological effects that COVID-19 virus would have caused.

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VII.

COUNT I

**(NEGLIGENCE AGAINST PRINCESS CRUISE LINES LTD.
AND DOES 1-50)**

70. Plaintiffs re-allege all allegations in paragraphs 1 through 69 above as if alleged fully herein.

71. PRINCESS owed Plaintiffs, who was a paying passenger, who boarded the Grand Princess on February 21st, 2020, the duty to ensure that he would not be exposed to unreasonable risk of harm that Defendant knew or should have known about while sailing on its vessel.

72. Based on information and belief, plaintiffs allege that Defendant’s corporate office was aware of at least two [2] to five [5] passengers who disembarked its ship on February 21st, 2020 in San Francisco, had symptoms of the Coronavirus. It went as far as to send emails on Wednesday February 25th, 2020, to passengers who disembarked the Grand Princess on February 21st, 2020, notifying them of the potential of exposure to the coronavirus while onboard their cruise.

73. However, despite having dozens of crew members and staff having infected with the Virus, defendants intentionally concealed this information and failed to advise plaintiffs in a timely manner and any time post the dismemberment.

74. To make matters even worse, there were sixty-two passengers on board the Plaintiff’s cruise, who were also on the prior voyages, who were exposed to the passengers that were confirmed to be infected, and later died. Defendant had a duty to advise plaintiffs regarding the true facts and because of their death, but intentionally concealed the facts from the plaintiffs.

75. In continuing to sail with another three thousand passengers, including PLAINTFIFS on February 21st, 2020, knowing that some of those passengers and crew had already been exposed to COVID-19, the Defendant, PRINCESS had exposed PLATINTIFFS to serious risk of harm and or death

1 resulting from COVID 19.

2 76. Defendant is further negligent in failing to have proper screening
3 protocols for COVID-19 prior to boarding the passengers on Plaintiffs voyage.
4 Despite the knowledge and experience Defendant’s corporate office had with the
5 outbreak of the disease on the Diamond Princess just a mere three weeks prior to the
6 instant case, Defendant did not have proper screening protocol in place to minimize
7 the risk of exposure of the disease to its passengers and crew.

8 77. Prior to boarding the February 21st, 2020 sailing on the Grand Princess,
9 passengers were simply asked to fill out a piece of paper confirming they were not
10 sick. Not one passenger was questioned, let alone examined in any capacity.
11 Incredibly, not one of those sixty-two passengers or crew members who were mixing
12 and mingling with the infected prior passengers were ever examined during the
13 instant voyage until being tested for the virus on Thursday March 5, 2020, two
14 weeks after the ship sailed.

15 78. Finally, Defendant PRINCESS’ corporate office is negligent in failing
16 to adequately warn Plaintiff about the potential exposure to COVID-19 prior to
17 boarding the ship on February 21st, 2020, and again during the sailing of said cruise.
18 Defendant had actual knowledge of at least two passengers who sailed on its ship the
19 week prior, disembarked with symptoms of coronavirus, and one confirmed death as
20 a result. Defendant also knew that there were sixty-two passengers and crew who
21 were onboard that same sailing, which were on board with PLAINTIFFS, and failed
22 to inform PLAINTIFFS, at any, time prior to boarding or while they were already
23 onboard, that there was an actual risk of exposure to COVID-19. In addition,
24 PRINCESS failed to inform Plaintiffs that a crew member aboard his cruise had
25 actually disembarked in Hawaii as a result of Coronavirus.

26 79. As a direct and proximate result of the aforementioned negligence
27 of PRINCESS in exposing Plaintiffs to actual risk of immediate physical injury,
28 Plaintiffs suffered from bodily injury and/or emotional distress from COVID-19

1 exposure as they sat minute-after-minute in their confined cabins on an infected
2 vessel, as they continued to sit in additional quarantine on land, and after they
3 left quarantine. This bodily injury and/or emotional harm will continue for
4 months if not years to come.

5 80. As a direct and proximate result of the negligence alleged above
6 PLAINTFFS have suffered damages.

7
8 **VIII.**

9 **COUNT II**

10 **(GROSS NEGLIGENCE AGAINST DEFENDANT PRINCESS**
11 **CRUISE LINES LTD AND DOES 1-50)**

12
13 81. Plaintiff re-alleges all allegations set out in paragraphs 1 through 80
14 above as if alleged fully herein.

15 82. Defendant was completely aware that WHO declared an
16 INTERNATIONAL EMERGENCY and advised the outbreak of COVID 19 as a
17 very serious virus that could lead to a Pandemic. This information was readily
18 available and known or should have been known by defendant. Defendant
19 simply chose to ignore this information as the time it boarded the plaintiffs on
20 PRINCESS and by ignoring the serious nature of the warning and International
21 Emergency from WHO, Defendant not only but recklessly created a Zone of
22 Danger for the Plaintiffs on board the Cruise but constituted a reckless conduct
23 which amounted to gross negligence on the part of the Defendants.

24 83. Defendant, Princess' corporate office's conduct in deciding to
25 continue to sail the Grand Princess with Plaintiffs knowing that the ship was infected
26 from two previous passengers who came down with symptoms of COVID-19 and had
27 sixty-two passengers on board with plaintiffs who were previously exposed to those
28

1 two infected individuals, along with the prior crew, shows wanton and reckless
2 conduct on the part of Defendant, amounting to gross negligence.

3 84. Defendant knew how dangerous it was to expose Plaintiff and the rest
4 of its passengers to COVID-19 in light of its experience with the Diamond Princess
5 a short three weeks prior, and yet it departed from what a reasonably careful cruise
6 line would do under the circumstances in continuing to sail with Plaintiffs.

7 85. Moreover, Defendant's corporate office's conduct in failing to warn
8 Plaintiff of his actual risk of harm in being exposed to COVID-19, either prior to
9 boarding or while he was already on board, in light of the prior passenger who came
10 down with symptoms who ended up dying, along with others who came down with
11 symptoms from that prior voyage, and the crew member who disembarked during
12 this voyage from the virus, amounts to an extreme departure of a what a reasonably
13 careful cruise line would do, in light of that fact that Plaintiffs, are elderly.

14 86. As a direct and proximate result of the negligence alleged above
15 PLAINTIFFS have suffered damages

16
17 **IX.**

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiffs pray judgment against Defendants as hereinafter set forth:

- 20 a. For compensatory and general damages in an amount
21 according to proof.
- 22 b. For past and future physical pain and disfigurement.
- 23 c. For past and future medical, incidental, and service
24 expenses according to proof.
- 25 d. For past and future mental anguish.
- 26 e. For loss of earnings and earning capacity.
- 27
28

- 1 d. For punitive damages to be awarded according to proof.
- 2 e. For pre- and post-judgment interest on all damages as
- 3 allowed by the law.
- 4 f. For costs of suit incurred herein.
- 5 g. For attorney fees under existing law; and
- 6 h. For such other and further relief as the Court may deem just and proper
- 7

8 **X.**

9 **DEMAND FOR JURY TRIAL**

10 The Plaintiffs hereby demands a trial by jury of all issues so triable of
11 right. DATED this 28th day of DECEMBER 2020.

12
13 THE LAL-HARRIS LAW GROUP

14 By: /s/ Hari S. Lal
15 Hari S. Lal, Esq. [SBN: 141031]
16 Attorney for Plaintiffs
17 lalslaw@msn.com
18 1020 South Anaheim Boulevard # 202
19 Anaheim, CA 92805
20 Telephone: (714) 635-1646
21 Facsimile: (714) 635-2457
22
23
24
25
26
27
28

PALERMO LAW
By: Don P. Palermo, Esquire
111 N. Olive Street
Media, PA 19063
(215) 499-2957
(215) 364-1861 (fax)
palermolaw@comcast.net
Attorney for Plaintiff

SHEILA ELIJAH, Administratrix ad
Prosequendum and General
Administratrix of the Estate of
Robert Elijah, Deceased
60 County Road, Unit 58-K
Cliffwood, NJ 07721

SUPERIOR COURT OF NEW JERSEY
HUDSON COUNTY - LAW DIVISION

Plaintiff,

vs.

DOCKET NO.: HUD-L-

PORT AUTHORITY TRANS-
HUDSON CORPORATION
Four World Trade Center, 24th Floor
150 Greenwich Street
New York, NY 10007

JURY TRIAL DEMANDED

Defendant.

CIVIL ACTION

COMPLAINT

Plaintiff, Sheila Elijah, Administratrix ad Prosequendum of the Estate of Robert Elijah (deceased) by and through her attorney, Don P. Palermo, Esquire, brings Plaintiff's Complaint against Defendant, Port Authority Trans-Hudson Corporation (PATH) and states as follows:

1. On or about June 8, 2020, Letters of Administration ad Prosequendum were granted by the Surrogate of County of Monmouth, New Jersey, to the Plaintiff, Sheila Elijah, against the Defendant as hereinafter mentioned (a true copy of the Letters

of Administration ad Prosequendum is appended hereto as Exhibit 1 and incorporated herein by reference).

2. As it relates to this action, Plaintiff is the duly acting and qualified Administratrix of the Estate of Robert Elijah (hereinafter "Decedent"), who at the time of death was a resident of the County of Monmouth, state of New Jersey.

3. Defendant, Port Authority Trans-Hudson Corporation, is a public entity organized and existing under the laws of the States of New Jersey and New York, doing business in New Jersey and whose address for service of process is Four World Trade Center, 24th Floor, 150 Greenwich Street, New York, NY 10007.

4. This suit is brought pursuant to an Act of Congress known as the Federal Employers' Liability Act (FELA), 45 U.S.C. §51 et seq., which grants this Court jurisdiction over this action.

5. At all times material hereto, the Defendant, Port Authority Trans-Hudson Corporation (PATH), was engaged in interstate commerce as a common carrier by rail, and for the purpose hereof did operate a line and system of railroads and transacted substantial business throughout the States of New Jersey and New York.

6. At all times relevant hereto, the Plaintiff was employed by the Defendant PATH since January 29, 2001 as a Power Rail Mechanic, and was acting in the course and scope of his employment with Defendant, and was engaged in the furtherance of interstate commerce within the meaning of the FELA.

7. At all times relevant hereto, the acts of omission and commission causing injuries to the Plaintiff were done by the Defendant, its employees, agents, servants,

workmen and/or contractors acting in the course and scope of their employment with and under the direct and exclusive control of the Defendant.

8. All of the property, equipment and operations involved in this incident were, at all times relevant hereto, owned and/or under the direct and exclusive control of the Defendant, its employees, agents, servants, workmen and/or contractors.

9. On or about March 15, 2020, Decedent was exposed to the COVID-19 virus at Defendant's "C" Yard in Jersey City, New Jersey when he embraced a co-worker who later tested positive for COVID-19 (after PATH originally claimed that the co-worker's test results were lost). Decedent was not wearing a mask because PATH had instructed its workers at safety meetings not to wear masks at work unless they were performing their specific job functions.

10. Approximately one and a half to two weeks after he was exposed to a coworker who later tested positive for COVID-19, Decedent began to experience symptoms of the virus, including, but not limited to, fever, weakness, loss of the sense of smell and taste, breathing problems, and diarrhea.

11. On or about April 3, 2020, after his symptoms got progressively worse and over the counter medications failed, Decedent was taken by ambulance to Bayshore Medical Center, where he was admitted with pneumonia in one of his lungs. Two days later, Decedent was transferred to the Intensive Care Unit ("I.C.U.") of the hospital.

12. Over the course of the next 20 days, Decedent experienced a horrible and protracted death. Decedent's pneumonia spread to his other lung, and he was placed on a ventilator. When Decedent's organs, including his heart and kidneys, started to fail, he was placed on dialysis. Decedent developed blood clots and was placed on blood

thinners. Decedent also received a plasma infusion while hospitalized. During the entire time Decedent was dying in the hospital, he was unable to see his loving wife and companion for 40 years, Sheila Elijah, or any other members of his immediate family.

13. Decedent was conscientious about contracting the COVID-19 virus and in fact had purchased N-95 masks and gloves for his immediate family.

14. None of Decedent's family or friends ever had and/or have the COVID-19 virus.

15. Decedent's death occurred on April 23, 2020 due to COVID-19 and this action was timely commenced within two years of the Decedent's death.

16. Decedent's funeral was held on May 8, 2020. Due to the COVID-19 pandemic, Decedent's funeral was limited to 15 people, with five at a time allowed to view him. Decedent's family was limited to only 30 minutes with him. Decedent was cremated and his ashes remain at home with his widow, Sheila Elijah.

Count I – Wrongful Death
(N.J.S.A. 2A:31-1 et seq.)

17. The Plaintiff herein incorporates and makes a part of this Complaint paragraphs 1 through 16 as if fully set forth at length.

18. At all times relevant hereto, Defendant had a duty to use reasonable care and provide a reasonably safe place to work.

19. The Defendant Railroad, its employees, agents, servants, workers and/or contractors were negligent in one or more of the following ways:

(a) failing to provide the Decedent and his co-workers with a safe place to work;

- (b) failing to properly train and/or educate the Decedent and his co-workers on how to protect themselves from contracting the COVID-19 virus at work;
- (c) failing to timely and adequately provide safe and adequate Personal Protective Equipment (“PPE”) to prevent Decedent from contracting the COVID-19 virus from co-workers, including, but not limited to, masks (N-95), gloves and/or hand sanitizer, and in fact on March 5, 2020 (10 days before Decedent’s exposure), PATH ordered its foremen to have their respective employees return masks that they were issued;
- (d) failing to timely and effectively conduct contact tracing for the COVID-19 virus;
- (e) failing to timely and effectively test Decedent and his co-workers for the COVID-19 virus – PATH only started offering testing to its employees in mid-May, 2020 (a month after Decedent passed away), only after its labor unions insisted on testing for their members;
- (f) failing to timely and effectively quarantine Decedent and his co-workers after each was exposed to the COVID-19 virus;
- (g) failing to timely and effectively apply social distancing rules for Decedent and his co-workers;
- (h) failing to timely and adequately clean the areas where Decedent and his co-workers worked after each was exposed to the COVID-19 virus;
- (i) failing to warn Decedent and his co-workers of the dangers of contracting the COVID-19 virus at work;
- (j) failing to medically treat Decedent and his co-workers for the COVID-19

virus. In fact, Defendant actually closed its Medical Department after the COVID-19 outbreak;

(k) failing to timely and effectively schedule Decedent and his co-workers on alternate weeks in order to minimize the risk of exposure to the COVID-19 virus;

(l) failing to timely and effectively implement a return to work policy for employees exposed to the COVID-19 virus. Shortly after being forced to offer COVID-19 testing to its workers, PATH, in retaliation, unilaterally instituted a “clawback” policy that only allowed its workers ten paid sick days to recover if they became infected by the corona virus, retroactive to April 17, 2020 (PATH eliminated its policy in June, 2020, only after objection from its Labor Coalition);

(m) failing to provide death benefits for Decedent and other co-workers who died from contracting the COVID-19 virus;

(n) violating its own safety rules, practices, and procedures because the Decedent’s supervisor is responsible for the safety of the employees under his jurisdiction;

(o) violating its own safety rules, practices and/or procedures because to the extent it claims Plaintiff did not follow any safety rule, procedure, instruction, training, practices, policies and warnings, Decedent’s supervisor(s) failed to ensure that employees worked in a safe manner consistent with all company safety rules, procedures, instructions, training, practices, policies and warnings;

(p) violating its own safety rules, practices and/or procedures because to the extent it claims Plaintiff did not follow any safety rule, procedure, instruction, training,

practices, policies and warnings, Decedent's supervisor(s) failed to routinely observe, correct and instruct employees to ensure compliance with safety standards; and/or,

(q) failing to act in a reasonably prudent manner in light of the facts and circumstances surrounding the Decedent's exposure to the COVID-19 virus.

18. The Decedent's death was not caused or contributed to in any way from the Decedent's own negligence.

19. The Decedent is survived by Sheila Elijah, his wife, as well as three children and twelve grandchildren, all of whom were dependent upon the Decedent's companionship and future support.

20. At the time of his death, Decedent was 61 years of age, in good general health, able-bodied and had an expectation of a substantial earning power, having a substantial life expectancy, and residing with his wife, daughter and grandson, who were entitled to his services and earnings as well as future care, comfort and support which Decedent would have been able to furnish to them.

21. By reason of the negligence of PATH, the Plaintiff, as the wife of Decedent, has been deprived of the services, support, care and attention of the Decedent during his lifetime and the Plaintiff also incurred hospital, medical and funeral expenses on behalf of the Decedent, all to the Plaintiff's damage.

22. Additionally, the Plaintiff has suffered a pecuniary loss of guidance, advice, and counsel as a direct and proximate result of the Decedent's death which includes but is not limited to lost guidance, advice and counsel pertaining to medical care, career decisions, family and social relationships and interactions, as well as that pertaining to the Plaintiff's outlook on life in general.

23. Furthermore, Defendant recklessly exposed Decedent to the COVID-19 virus when it knew from his medical file that he was at a higher risk of contracting the coronavirus due to the fact that: 1) he was a Type II Diabetic and was prescribed insulin; 2) he was African American; 3) he was over 60 years of age; and, 4) he worked in and near New York City, the largest city in the United States, with more COVID-19 cases than any other area in the entire country.

24. Defendant's negligence through its employees, agents, servants, workmen and/or contractors, in whole or in part, caused and/or contributed to the Plaintiff contracting the COVID-19 virus, which caused his premature death.

25. As a result of Defendant's negligence, Decedent lost time from work, lost wages, and lost overtime pay, and his future earning capacity was permanently impaired and he will lose wages in the future.

26. As a result of Defendant's negligence, Decedent required medical treatment and medical care and incurred and may continue to incur medical bills and medical expenses.

27. As a result of Defendant's negligence, Decedent sustained pain and suffering, mental anguish and loss of enjoyment of life.

28. Plaintiff seeks all damages against the Defendant that are recoverable under the FELA for economic and non-economic damages.

WHEREFORE, Plaintiff, Sheila Elijah, as Administratrix ad Prosequendum of the Estate of Robert Elijah, demands judgment against the Defendant, Port Authority Trans-Hudson Corporation, for all damages recoverable under the FELA, and brings this FELA personal injury action to recover same.

Count II – Survival and Pain and Suffering
(N.J.S.A. 2A:15-3)

29. The Plaintiff repeats the allegations contained in the first Count of this Complaint as if they were fully set forth herein and repeated.

30. As a result of the Defendant's negligence, the Decedent experienced extreme pain and suffering, specifically, the Decedent contracted the COVID-19 virus, which caused the Decedent extreme pain and suffering.

31. Additionally, as a result of contracting the COVID-19 virus and the pain and suffering, the Decedent suffered a loss of enjoyment of life.

32. As a result of the Defendant's negligence, as described above, funeral services were held in memory of the Decedent, and he was cremated. Substantial and reasonable expenses were incurred for the Decedent's funeral and cremation.

Plaintiff, Sheila Elijah demands a trial by jury.

WHEREFORE, Plaintiff, Sheila Elijah, as Administratrix ad Prosequendum of the Estate of Robert Elijah, demands judgment against the Defendant, Port Authority Trans-Hudson Corporation, for all damages recoverable under the FELA, and brings this FELA personal injury action to recover same.

DESIGNATION OF TRIAL COUNSEL

DON P. PALERMO, ESQUIRE, is hereby designated as trial counsel in this matter.

DEMAND FOR JURY TRIAL

The Plaintiff hereby demands trial by jury as to all issues in the above matter.

CERTIFICATION

I hereby certify that this matter is not the subject of any other action pending in any court or of an arbitration proceeding, and that there exist, to the best of my knowledge and belief, no other parties that need to be joined to this action.

Date: June 11, 2020

By:

PALERMO LAW

DON P. PALERMO, ESQUIRE
Attorney for Plaintiff



EXHIBIT 1

State of New Jersey
Monmouth County Surrogate's Court




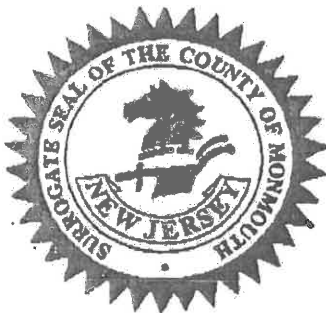
In the Matter of the Estate of
Robert Vernon Elijah, Deceased
(aka: Robert V. Elijah; Robert Elijah; Robert
Elijah)

LETTERS OF ADMINISTRATION
AD PROSEQUENDUM
Docket No.: 260946

I, Rosemarie D. Peters, Surrogate of Monmouth County and State of New Jersey, do certify that on June 8th, 2020, Administration Ad Prosequendum of decedent, who died intestate, late of the County of Monmouth and State of New Jersey was granted by me to Sheila R. Elijah who is(are) duly authorized to bring an action, institute a proceeding or make a claim in his/her(their) name as such Administrator/rix(s) Ad Prosequendum as in the statute such case provided.

WITNESS my hand and seal of office, this
June 8th, 2020


Rosemarie D. Peters, Surrogate



IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

DEBORAH LANZO, as ADMINISTRATOR
OF THE ESTATE OF RAYMOND LANZO

PLAINTIFF

v.

GENERATIONS BEHAVIORAL HEALTH-
YOUNGSTOWN, LLC
c/o CT CORPORATIONS SYSTEM,
Statutory Agent
4400 Easton Commons Way, Suite 125
Columbus, Ohio 43219

DEFENDANT

CASE NO. *13 cv 677*

JUDGE **PETER J KONTOS**

COMPLAINT

COUNT I- WRONGFUL DEATH
(OTHER TORT)
COUNT II- SURVIVOR ACTION
(OTHER TORT)

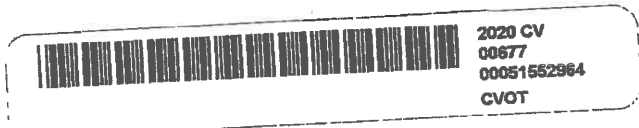
**JURY DEMAND
ENDORSED HEREON**

Now comes the Plaintiff, Deborah Lanzo, as administrator of the Estate of Raymond Lanzo, by and through counsel, Attorney Lynn Sfara Bruno, of Lynn Sfara Bruno Company, LPA, Inc., who for the Complaint against the Defendant, Generations Behavioral Health-Youngstown, LLC, as follows:

JURISDICTION AND VENUE

- 1.) The Plaintiff, Deborah Lanzo, is now, and at all times relevant, Administrator of the Estate of Raymond Lanzo, an estate that was opened in the Probate Court located in the County of Mahoning, and State of Ohio, after the untimely death of the decedent, Raymond Lanzo, on or about April 30, 2020.
- 2.) The Defendant, Generations Behavioral Health-Youngstown, LLC, is now, and at all times relevant, a business that has filed appropriate documents of operation under the laws of the State of Ohio, with its

TRUMBULL COUNTY
CLERK OF COURTS
2020 JUN -5 P 3 22
MAHONING COUNTY
CLERK OF COURTS



principal place of business being conducted in the County of Trumbull, and State of Ohio.

- 3.) That the Defendant, Generations Behavioral Health-Youngstown, LLC, has purposefully availed itself to conducting business in the County of Trumbull and State of Ohio.
- 4.) That CT Corporations System is statutory agent for the Defendant, Generations Behavioral Health-Youngstown, LLC, and is named in this Complaint for statutory agent purposes only.
- 5.) The Plaintiff, Deborah Lanzo, as Administrator of the Estate of Raymond Lanzo, states that all acts relating to the incident giving rise to the foregoing Complaint occurred in the County of Trumbull, and State of Ohio.
- 6.) The Plaintiff, Deborah Lanzo, as Administrator of the Estate of Raymond Lanzo, states that the amount in controversy, in the above captioned action, is in excess of twenty-five thousand dollars (\$25,000.00).
- 7.) The Plaintiff, Deborah Lanzo, as Administrator of the Estate of Raymond Lanzo, has been informed, and believes, that this Honorable Court has jurisdiction and is the appropriate venue to adjudicate the matters contained herein.

GENERAL ALLEGATIONS

- 8.) The Plaintiff, Deborah Lanzo, as Administrator of the Estate of Raymond Lanzo, incorporates by reference each of the allegations contained in paragraphs one (1) through seven (7).

- 9.) The Plaintiff, Deborah Lanzo, as Administrator of the Estate of Raymond Lanzo, states that this action is being set forth under the Wrongful Death statute of the State of Ohio.
- 10.) That at all times relevant the deceased, Raymond Lanzo, was employed by the Defendant, Generations Behavioral Health-Youngstown, LLC.
- 11.) At the time the deceased, Raymond Lanzo, was employed by the Defendant, Generations Behavioral Health-Youngstown, LLC, the State of Ohio was under an Order by Governor Michael DeWine in response to the global pandemic, as a result of COVID-19.
- 12.) Governor Michael DeWine declared a state of emergency for the State of Ohio in response to the global pandemic, as a result of COVID-19, on or about March 9, 2020.
- 13.) Governor Michael DeWine ordered that any individuals whom had been exposed to the coronavirus, COVID-19, or was otherwise ill, was required to self-quarantine until such time that any symptoms of illness have passed, or for a total of fourteen (14) days if exposed to the coronavirus, or COVID-19.
- 14.) That it is alleged that the Defendant, Generations Behavioral Health-Youngstown, LLC, failed, or refused, to follow the directives of Governor Michael DeWine.
- 15.) That it is alleged that the actions of the Defendant, Generations Behavioral Health-Youngstown, LLC, exposed the deceased, Raymond Lanzo, to COVID-19.

- 16.) That it is alleged that if the Defendant, Generations Behavioral Health-Youngstown, LLC, followed the directives of Governor Michael DeWine, the deceased, Raymond Lanzo, would not have been exposed to COVID-19.
- 17.) That the deceased, Raymond Lanzo, did contract COVID-19, as a direct and proximate result of the actions of the Defendant, Generations Behavioral Health-Youngstown, LLC.
- 18.) The deceased, Raymond Lanzo, passed away on April 30, 2020, with the primary cause of death being "COVID-19 Pneumonia."
- 19.) That the Defendant, Generations Behavioral Health-Youngstown, LLC, had a duty to protect its employee, the deceased, Raymond Lanzo, and failed in the duty to protect its employee, the deceased, Raymond Lanzo, by, allegedly, failing, or refusing, to follow the directives and Orders of Governor Michael DeWine.
- 20.) That the death of the deceased, Raymond Lanzo, was a direct, and proximate result of the actions of the Defendant, Generations Behavioral Health-Youngstown, LLC.
- 21.) That the deceased, Raymond Lanzo, lost future wages as a direct, and proximate, result of the actions of the Defendant, Generations Behavioral Health-Youngstown, LLC.
- 22.) As a direct, and proximate, result of the actions of the Defendant, Generations Behavioral Health-Youngstown, LLC, Deborah Lanzo, and Ross Lanzo, the widow and surviving son of the deceased, Raymond

Lanzo, have experienced the loss of society, companionship, care, consortium, assistance, attention, protection, advice, guidance, counsel, instruction, training and education of the deceased, Raymond Lanzo, along with mental pain, anguish, and emotional trauma.

- 23.) That the direct and proximate actions of the Defendant, Generations Behavioral Health-Youngstown, LLC, demonstrated a carelessness, willful and wanton disregard for the safety of the deceased, Raymond Lanzo, and his family.
- 24.) That the medical bills that were incurred to care for the symptoms, and fatal condition, of the decedent, Raymond Lanzo, were due to the direct, and proximate, result of the actions of the Defendant, Generations Behavioral Health-Youngstown, LLC.
- 25.) The direct and proximate result of the actions of the Defendant, Generations Behavioral Health-Youngstown, LLC, demonstrated willful and wanton disregard for the safety of the deceased, Raymond Lanzo, and caused the deceased, Raymond Lanzo, to incur unrelenting, and fatal, injuries to the decedent, Raymond Lanzo, ultimately causing the decedent, Raymond Lanzo, to lose the ability to enjoy all aspects of his life until his death.

COUNT I- WRONGFUL DEATH
(OTHER TORT)

The Plaintiff, Deborah Lanzo, as Administrator for the Estate of Raymond Lanzo, alleges against the Defendant, Generations Behavioral Health-Youngstown, LLC, as follows:

- 26.) The Plaintiff, Deborah Lanzo, as Administrator for the Estate of Raymond Lanzo, incorporates each of the allegations contained in paragraphs one (1) through twenty-five (25) of the Complaint.
- 27.) The Plaintiff, Deborah Lanzo, as Administrator for the Estate of Raymond Lanzo, alleges that at all times relevant, the Defendant, Generations Behavioral Health-Youngstown, LLC, acted negligently, carelessly, recklessly, willful and wantonly and/or unlawfully and in direct contravention to the Orders and directives of the State of Ohio during the pandemic concerning the coronavirus and/or COVID-19 willfully creating a situation which exposed the decedent, Raymond Lanzo, to situations that exposed the decedent, Raymond Lanzo, to COVID-19, including, but not limited to willful and wanton conduct in the Defendant, Generations Behavioral Health-Youngstown, LCC, to expose the decedent, Raymond Lanzo, to unnecessary danger that ultimately caused his premature death, including, but not limited to, unnecessary exposure to the COVID-19 virus and permitting those exposed to the COVID-19 virus to manifest the virus onto others, including the decedent, Raymond Lanzo.
- 28.) The aforementioned acts and/or omissions by the Defendant, Generations Behavioral Health-Youngstown, LLC, were not the result of an exercise in discretion as the Defendant, Generations Behavioral Health-Youngstown, LLC, are not, and at the time were not, vested with discretion to contravene federal, and/or state, law enacted to prevent the spread of the coronavirus and/or COVID-19, rather it was the purposeful intent of the

Defendant, Generations Behavioral Health-Youngstown, LLC, in willful and wanton acts in failing to protect the employee, the decedent, Raymond Lanzo, from the fatal injury caused by the wanton, willful, and tortious act in exposing him to the COVID-19 virus, shows the extreme negligence and liability of the Defendant, Generations Behavioral Health-Youngstown, LLC, in purposefully causing the wrongful death of the decedent, Raymond Lanzo. It is alleged that the employer/Defendant, Generations Behavioral Health-Youngstown, LLC, was "substantially certain" that its employees, including, but not limited to the decedent, Raymond Lanzo, would suffer the fatal disease known as COVID-19. Additionally, the negligent failure to provide appropriate safety equipment creates a presumption that the Defendant, Generations Behavioral Health-Youngstown, LLC, had wanton, willful, and purposeful intent to injure the decedent, Raymond Lanzo, with the COVID-19 disease, which ultimately resulted in the premature death of the decedent, Raymond Lanzo.

- 29.) Further, the aforementioned acts and/or omissions of the Defendant, Generations Behavioral Health-Youngstown, LLC, did not pertain to a decision whether to continue operations during the coronavirus and/or COVID-19 pandemic, nor to any terms and conditions of the operations of the Defendant, Generations Behavioral Health-Youngstown, LLC,, but rather involved ministerial acts and/or omissions in the implementation of policies, procedure, equipment, safety supplies, and a course of operations for the Defendant, Generations Behavioral Health-Youngstown, LLC,

during Orders set forth by the federal government and the State of Ohio during the coronavirus and/or COVID-19 pandemic.

- 30.) The Plaintiff, Deborah Lanzo, as Administrator for the Estate of Raymond Lanzo, allege, that at all times relevant herein, the Defendant, Generations Behavioral Health-Youngstown, LLC, was on notice of the potentially tragic consequences of the failure to implement policies, procedure, and a course of operations that conformed with the Orders and directives of the federal government and the State of Ohio, including, but not limited to, the potential for the spread of the coronavirus and/or COVID-19, and the life threatening consequences of any individual contracting the coronavirus and/or COVID-19.
- 31.) As a direct, proximate, and legal result of the wrongful acts and/or omissions of the Defendant, Generations Behavioral Health-Youngstown, LLC, the decedent, Raymond Lanzo, was exposed to a fatal situation that proximately caused the contraction of the coronavirus and/or COVID-19, and that the decedent, Raymond Lanzo, did, in fact, contract COVID-19, the result of which was the unfortunate death of the decedent, Raymond Lanzo.
- 32.) As a further direct, proximate, and legal result of the wrongful acts and/or omissions of the Defendant, Generations Behavioral Health-Youngstown, LLC, the family of the decedent, Raymond Lanzo, was deprived of being able to be present with the decedent, Raymond Lanzo, as he struggled for life and was placed on a ventilator. As a result, thereof, the entire family

of the decedent, Raymond Lanzo, has thereby suffered extreme emotional distress, including, but not limited to, nervousness, grief, anxiety, worry, mortification, shock, indignity, apprehension, terror or ordeal, all in an amount to be determined.

- 33.) As a further direct, proximate, and legal result of the wrongful acts and/or omissions of the Defendant, Generations Behavioral Health-Youngstown, LLC, the family of the decedent, Raymond Lanzo, suffered and continue to suffer the loss of love, society, solace, companionship, comfort, care, assistance, protection, affection and moral support, all in an amount to be determined.
- 34.) As a further direct, proximate, and legal result of the wrongful acts and/or omissions of the Defendant, Generations Behavioral Health-Youngstown, LLC, the family of the decedent, Raymond Lanzo, incurred funeral, and burial expenses in an amount to be determined at trial.
- 35.) The family of the decedent, Raymond Lanzo, has been advised, and believes, that the injuries, and illness contracted by the decedent, Raymond Lanzo, and the unfortunate death of the decedent, Raymond Lanzo, were a direct, proximate, and legal result of the alleged wrongful acts and/or omissions of the Defendant, Generations Behavioral Health-Youngstown, LLC. That the wrongful acts and/or omissions of the Defendant, Generations Behavioral Health-Youngstown, LLC, showed a complete disregard for the health, safety and well-being of the decedent, Raymond Lanzo, and the family of the decedent, Raymond Lanzo.

COUNT II- SURVIVAL CLAIM

(OTHER TORT)

The Plaintiff, Deborah Lanzo, as Administrator for the Estate of Raymond Lanzo, alleges against the Defendant, Generations Behavioral Health-Youngstown, LLC, as follows:

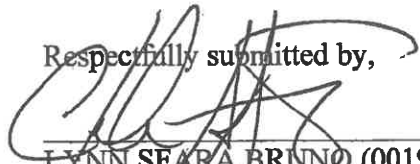
- 36.) The Plaintiff, Deborah Lanzo, as Administrator for the Estate of Raymond Lanzo, incorporates each of the allegations contained in paragraphs one (1) through thirty-five (35) of the Complaint.
- 37.) On April 30, 2020, and prior to the death of the decedent, Raymond Lanzo, the foregoing cause of action arose in favor of the decedent, Raymond Lanzo. Since the death of the decedent, Raymond Lanzo, Deborah Lanzo has served as administrator for the Estate of Raymond Lanzo and is authorized with successor in interest with respect to interests and to pursue any and all legal claims for damages for expenses incurred related to medical and/or emergency services related to the incident.
- 38.) At all times prior to this incident, the Defendant, Generations Behavioral Health-Youngstown, LLC, negligently, carelessly, recklessly, and/or unlawfully acted and/or failed to act, including, but not limited to, failing to perform mandatory duties so as to cause the death of the decedent, Raymond Lanzo.
- 39.) As a direct, proximate, and legal result of the wrongful acts and/or omissions of the Defendant, Generations Behavioral Health-Youngstown, LLC, the decedent, Raymond Lanzo, experienced terror and conscious anguish, suffering and pain prior to his death.

- 40.) As a direct, proximate, and legal result of the wrongful acts and/or omissions of the Defendant, Generations Behavioral Health-Youngstown, LLC, expenses were incurred for medical services.

WHEREFORE, the Plaintiff, Deborah Lanzo, as Administrator for the Estate of Raymond Lanzo, requests judgment against the Defendant, Generations Behavioral Health-Youngstown, LLC, as follows:

- 1.) As to Count I, the Plaintiff, Deborah Lanzo, as Administrator for the Estate of Raymond Lanzo, be entitled to an amount in excess of twenty-five thousand (\$25,000.00) for his medical bills, pain and suffering, and other damages, including, but not limited to, burial and funeral expenses, in an amount to be determined at trial. The interest of any judgment at the maximum allowed by law, the cost of what has been incurred bringing the action, and for such other further relief which may be entitled, including, but not limited to, court costs and attorney fees.
- 2.) As to Count II, the Plaintiff, Deborah Lanzo, as Administrator for the Estate of Raymond Lanzo, be entitled to an amount in excess of twenty-five thousand (\$25,000.00) for his medical bills, pain and suffering, and other damages, in an amount to be determined at trial. The interest of any judgment at the maximum allowed by law, the cost of what has been incurred bringing the action, and for such other further relief which may be entitled, including, but not limited to, court costs and attorney fees.

Respectfully submitted by,

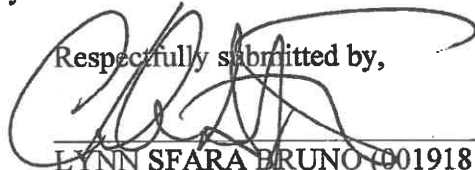


LYNN SFARA BRUNO (0019181)
COMPANY, LPA, INC.
CHARLES A. J. STRADER (0090459)
ATTORNEY FOR PLAINTIFF
412 Boardman-Canfield Road
Youngstown, Ohio 44512
Phone: (330) 965-2323
Fax: (330) 965-2320

JURY DEMAND

The Plaintiff, Deborah Lanzo, as Administrator for the Estate of Raymond Lanzo,
requests that this matter be heard in front of a jury.

Respectfully submitted by,



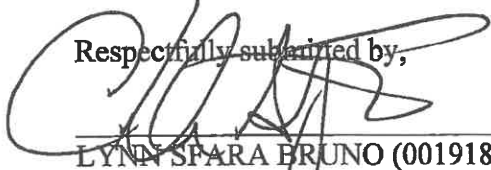
LYNN SFARA BRUNO (0019181)
COMPANY, LPA, INC.
CHARLES A. J. STRADER (0090459)
ATTORNEY FOR PLAINTIFF

INSTRUCTIONS TO THE CLERK

TO THE CLERK:

Please serve summons and a copy of the Complaint upon the Defendant at the
address listed in the caption of the Complaint by certified United States mail, return receipt
requested, as provided for in Rule 4.1(A) of the Ohio Rules of Civil Procedure.

Respectfully submitted by,



LYNN SFARA BRUNO (0019181)
COMPANY, LPA, INC.
CHARLES A. J. STRADER (0090459)
ATTORNEY FOR PLAINTIFF

IN THE COURT OF COMMON PLEAS, TRUMBULL COUNTY, WARREN, OHIO

S U M M O N S

Rule 4 1995 Ohio Rules of Civil Procedure

2020 CV 00677

DEBORAH LANZO ADMIN
C/O CHARLES A J STRADER ATTY
412 BOARDMAN CANFIELD ROAD
YOUNGSTOWN OH 44512

Plaintiff(s)

VS.

GENERATIONS BEHAVIORAL HEALTH YOUNGSTOWN LLC
C/O CT CORPORATIONS SYSTEM S/A
4400 EASTON COMMONS WAY STE 125
COLUMBUS OH 43219

Defendant(s)

IF APPLICABLE, SEE COMPLAINT FOR ADDITIONAL DEFENDANTS

TO THE ABOVE NAMED DEFENDANT(S):

YOU ARE HEREBY SUMMONED THAT A COMPLAINT (A COPY OF WHICH IS HERETO ATTACHED AND MADE A PART HEREOF) HAS BEEN FILED AGAINST YOU IN THIS COURT BY THE PLAINTIFF(S) NAMED HEREIN:

YOU ARE REQUIRED TO SERVE UPON THE PLAINTIFF(S) ATTORNEY, OR UPON THE PLAINTIFF(S) IF THEY HAVE NO ATTORNEY OF RECORD, A COPY OF YOUR ANSWER TO THE COMPLAINT ***WITHIN TWENTY-EIGHT (28) DAYS AFTER SERVICE OF THIS SUMMONS UPON YOU***, EXCLUSIVE OF THE DAY OF SERVICE. SAID ANSWER MUST BE FILED WITH THIS COURT WITHIN THREE DAYS AFTER SERVICE ON PLAINTIFF'S ATTORNEY.

THE NAME AND ADDRESS OF THE PLAINTIFF(S) ATTORNEY IS AS FOLLOWS:

**CHARLES STRADER
412 BOARDMAN-CANFIELD RD
YOUNGSTOWN, OH 44512**

IF YOU FAIL TO APPEAR AND DEFEND, JUDGMENT BY DEFAULT WILL BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.

**KAREN INFANTE ALLEN
CLERK OF COURTS**

BY: CYNTHIA BEALE
Deputy Clerk

Date: June 8, 2020

****FYI: IF THIS ACTION IS A CIVIL FORECLOSURE ACTION – PLEASE REFERENCE THE “SAVE THE DREAM” INFORMATIONAL PAGES AS FOUND ON THE CLERK’S WEBSITE AT: clerk.co.trumbull.oh.us/civil.htm**

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

| | | |
|------------------------------------|---|--------------------------|
| KATHY NORWOOD, INDIVIDUALLY | * | CIVIL ACTION NO.: |
| AND AS PERSONAL | * | |
| REPRESENTATIVE OF DECEDENT, | * | SECTION: |
| MICHAEL NORWOOD | * | |
| | * | JUDGE: |
| VERSUS | * | |
| | * | MAGISTRATE: |
| RODI MARINE, L.L.C. AND | * | |
| RODI MARINE MANAGEMENT, LLC | * | |

COMPLAINT FOR DAMAGES

TO THE HONORABLE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA AND THE JUDGES THEREOF:

The Complaint for Damages of Kathy Norwood, individually and as personal representative of Decedent, Michael Norwood (hereinafter “Plaintiff”), a person of majority age, with respect represents:

1.

Made Defendants herein are:

- (a) Rodi Marine, L.L.C. (hereinafter “Defendants”), a limited liability company authorized to do and doing business in this state and judicial district at all material times; and
- (b) Rodi Marine Management, LLC (hereinafter “Defendants”), a limited liability company authorized to do and doing business in this state and judicial district at all material times.

2.

At all material times, Decedent, Michael Norwood, was employed by Defendants as a vessel captain within the intendment of the Jones Act, 46 U.S.C. §30104, *et seq.*, for which job he earned approximately \$350.00 per day, plus found and fringe benefits.

3.

In March and April, 2020, Defendants assigned Decedent to work aboard a supply vessel in navigation owned, operated and controlled by Defendants at all material times.

4.

In March and April, 2020, the aforesaid vessel was located at the Austal Marine facility in Mobile, Alabama so that work could be performed on the vessel.

5.

While at Austal Marine, the vessel was crewed by Decedent, Captain John Reed and an unknown deckhand, all employed by Defendants.

6.

Sometime in late March, 2020, Defendants instructed Captain John Reed to travel to New Orleans, Louisiana to perform vessel captain services on Defendants' behalf. Upon completion of the job in New Orleans, Captain Reed returned directly to the vessel at Austal Marine.

7.

Captain Reed remained aboard the vessel at Austal Marine for a few days to a week when he became sick. Two to three days later, Defendants' office called the vessel asking to speak to Captain Reed. Decedent informed Defendants that Captain Reed had been sick in his vessel crew quarters for two to three days.

8.

Upon learning of Captain Reed's illness, Defendants removed Captain Reed from the vessel and sent him to a physician. Upon information and belief, Captain Reed was then transferred to Mobile Infirmary with a diagnosis of COVID-19.

9.

Decedent left the vessel and returned home when Captain Reed was removed for medical help. Decedent stayed at home and did not come in contact with anyone except his wife, Plaintiff Kathy Norwood, who has never had symptoms or tested positive for COVID-19.

10.

Approximately one week after returning home, Decedent began feeling ill. His condition gradually worsened.

11.

On or about April 14, 2020, Kathy Norwood took Decedent to Mobile Urgent Care, from where he was transported by ambulance to Providence Hospital in Mobile, Alabama.

12.

Decedent was diagnosed with COVID-19 at Providence Hospital upon admission. Despite the best efforts of medical and hospital personnel, COVID-19 caused Decedent's untimely death on April 17, 2020.

FOR A FIRST CAUSE OF ACTION

13.

Plaintiff repeats and re-avers all factual allegations stated herein as if re-plead in their entirety.

14.

The untimely death of Decedent, Michael Norwood, was caused by the negligence of Defendants in failing to provide Decedent with a safe workplace, failing to implement policies and procedures intended to protect its vessel crew from COVID-19, failing to train its vessel crew

members on the actions necessary to prevent contracting and spreading COVID-19 aboard its vessels and allowing a boat captain infected with COVID-19 to remain aboard the vessel.

15.

Alternatively, the untimely death of Decedent, Michael Norwood, was caused by the negligence of Defendants by and through their employee Captain John Reed who, despite traveling to a location on “lock down” and well known to be a “hotspot” for COVID-19, took no steps to protect himself and others and took no steps in response to developing COVID-19 symptoms, instead opting to remain aboard the vessel in Mobile, Alabama for at least three days while symptomatic and exposing his fellow crew members to COVID-19.

16.

As a consequence of the events and occurrences described herein and the resulting death of Decedent, Plaintiff, Kathy Norwood, as his surviving spouse and personal representative, is entitled to recover damages for Decedent’s past emotional and physical pain and suffering as well as loss of economic support on behalf of all of those dependent upon Decedent for said support at the time of his death, and funeral and burial expenses.

17.

Jurisdiction of this first cause of action against Defendants is based upon the Jones Act, 46 U.S.C. §30104, *et seq.*, and/or the general Maritime Law.

AND FOR A SECOND CAUSE OF ACTION

18.

Plaintiff repeats and re-avers all allegations of fact and law contained in the previous paragraphs as if re-plead herein in their entirety.

19.

The medical condition of vessel crew member Captain John Reed rendered him unfit for duty and the vessel unfit for its intended purpose and therefore unseaworthy, which unseaworthiness concurrently caused Decedent's death, for which Defendants are liable as the owner and/or operator of the vessel.

20.

As a consequence of the unseaworthiness of the vessel and the resulting events and occurrences described herein and the resulting death of Decedent, Plaintiff, Kathy Norwood, as his surviving spouse and personal representative, is entitled to recover damages for Decedent's past emotional and physical pain and suffering as well as loss of economic support on behalf of all of those dependent upon Decedent for said support at the time of his death, and funeral and burial expenses.

21.

Jurisdiction of this second cause of action against Defendants is based upon the Jones Act, 46 U.S.C. §30104, *et seq.*, and/or the general Maritime Law.

WHEREFORE, after due proceedings had, Plaintiff, Kathy Norwood, individually and as personal representative of Decedent, Michael Norwood, prays for judgment in her favor against Defendants, Rodi Marine, L.L.C. and Rodi Marine Management, LLC, for compensatory damages in an amount reasonable under the circumstances of this cause to be determined by this Honorable Court, Decedent's past emotional and physical pain and suffering, loss of economic support, funeral and burial expenses, plus costs and interest allowed by law, and for all additional general and equitable relief to which Plaintiff may be entitled under the circumstances of this cause.

Respectfully submitted,

/s/ Paul M. Sterbcow
PAUL M. STERBCOW (#17817)
BETH E. ABRAMSON (#27350)
Lewis, Kullman, Sterbcow & Abramson, LLC
601 Poydras Street, Suite 2615
New Orleans, Louisiana 70130
Telephone: (504) 588-1500
Facsimile: (504) 588-1514
sterbcow@lksalaw.com
babramson@lksalaw.com

COUNSEL FOR PLAINTIFF

PLEASE SERVE:

RODI MARINE, L.L.C.
through its agent for service of process
Donald "Wade" Guillory
128 Tonbridge Drive
Lafayette, LA 70508

RODI MARINE MANAGEMENT, LLC
through its agent for service of process
Jody Janell
406 Silverstone Road
Lafayette, LA 70508

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Michael A. Simmrin (238092)
Simmrin Law Group
3500 W. Olive Avenue, Suite 300
Burbank, CA 91505
Tel.: (818) 827-7171
michael@simmrinlawgroup.com

Debi F. Chalik, Esq. (Pro Hac Vice Pending) (Florida Bar No. 179566)
CHALIK & CHALIK, P.A.
10063 N.W. 1st Court
Plantation, Florida 33324
Tel.: (954) 476-1000
Fax: (954) 472-1173
Debi@Chaliklaw.com
Litigation@Chaliklaw.com
Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES

JOSEPH ULI'I, JR., TIARE ULI'I
and ELENA-PATRICE ULI'I,

CASE NO.: 2:20-cv-5091

Plaintiffs,

V.

PRINCESS CRUISE LINES LTD.

Defendant.

COMPLAINT AND JURY DEMAND

Plaintiffs, by and through their undersigned counsel, hereby sues Defendant,
PRINCESS CRUISE LINES LTD. (hereinafter, "PRINCESS"), and alleges as
follows:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

THE PARTIES AND JURISDICTION

1. This is an action seeking damages in excess of \$1,000,000.00 (One Million Dollars) exclusive of interest, costs and attorney's fees.

2. This Court has diversity subject matter jurisdiction pursuant to 28 U.S.C. §1332 as this is a civil action in which the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States and/or citizens of a State and citizens or subjects of a foreign state.

3. This Court also has Admiralty subject matter jurisdiction pursuant to 28 U.S.C. §1333 as this case involves a maritime tort. The type of incident and injuries suffered by Plaintiffs had the potential to impact maritime commerce as Plaintiffs were at serious risk of imminent harm as a result of being exposed to the Coronavirus running rampant aboard the cruise ship upon which they were paying passengers.

4. Plaintiff, JOSEPH ULI'I, JR. is sui juris, is a resident of Honolulu County, Hawaii, and was a passenger onboard the Ruby Princess.

5. Plaintiff, TIARE ULI'I is sui juris, is a resident of Honolulu County, Hawaii, and was a passenger onboard the Ruby Princess.

6. Plaintiff, ELENA-PATRICE ULI'I is sui juris, is a resident of Honolulu County, Hawaii, and was a passenger onboard the Ruby Princess.

7. Princess Cruise Lines LTD. is incorporated in Bermuda, with its headquarters in Santa Clarita California. The action is being filed in this Court

1 pursuant to the terms and conditions of the Passenger Contract issued by Defendant,
2 Princess Cruise Lines Ltd.
3

4 8. At all times hereto, PRINCESS owned and operated the cruise ship the
5 Ruby Princess.

6 9. This Court has personal jurisdiction over PRINCESS as PRINCESS'
7 principle place of business is located in Los Angeles County, Los Angeles.
8

9 10. Plaintiffs, JOSEPH ULI'I, JR., TIARE ULI'I and ELENA-PATRICE
10 ULI'I were passengers aboard the Ruby Princess which departed out of Sydney,
11 Australia on March 8, 2020 and had to return 3 days early on March 19, 2020, as a
12 result of an outbreak of COVID-19.
13
14
15

16 **FACTUAL BACKGROUND**

17 In the recent months, there has been a worldwide outbreak of a new strain of
18 the Corona virus, commonly known as COVID-19. The virus began in China in
19 December 2019, and has quickly spread throughout Asia, Europe and most recently,
20 North America. The virus causes temperature, a dry cough, and can be fatal. There
21 have been over One Hundred Thousand cases worldwide and over Three Thousand
22 deaths as result of COVID-19. Those fatalities have largely been amongst the elderly
23 population, and those with underlying medical complications.
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COVID-19 really gained the attention of the public when the Diamond Princess Cruise ship, also owned and operated by Defendant, suffered an outbreak of the disease at the beginning of February 2020 in Yokohama, Japan. The outbreak began with ten cases, and rapidly multiplied to seven hundred cases, as a result of the flawed two-week quarantine on the ship. The Center for Disease Control, (CDC) issued a statement on February 18, 2020, that “the rate of new reports of positives new on board, (Diamond Princess), especially among those without symptoms, highlights the high burden of infection on the ship and potential for ongoing risk.” Seven of Defendant’s passengers died as a result of COVID-19.

Subsequently, Princess Cruises suffered two additional outbreaks on the Grand Princess sailings of February 11, 2020 and February 21, 2020 out of San Francisco, resulting in more than four deaths and hundreds of infections to its passengers and crew members. Despite having experienced three major outbreaks on its ships, Princess Cruises kept sailing out of various ports of call around the world, including the Ruby Princess ship which sailed out of Sydney, Australia on March 8, 2020.

Princess Cruises decided to sail on March 8, 2020, despite their knowledge of the significant risk of harm to their passengers and crew members, in light of their

1 three prior voyages on other ships that resulted in outbreaks of the disease in
2 catastrophic proportions. More importantly, Princess Cruises experienced an
3 outbreak of COVID-19 on the Ruby Princess on the sailing just prior to the March 8,
4 2020 voyage, and yet they recklessly decided to board another three thousand
5 passengers on March 8, 2020 and put their lives at risk.
6
7

8 **COUNT I**

9 **(NEGLIGENCE AGAINST PRINCESS CRUISE LINES LTD.)**

10
11 Plaintiffs re-allege all allegations in paragraphs 1 through 10 above as if
12 alleged fully herein.
13

14 11. PRINCESS owed Plaintiffs, who were paying passengers who boarded
15 the Ruby Princess on March 8, 2020, the duty to ensure that they would not be
16 exposed to unreasonable risk of harm that defendant knew or should have known
17 about while sailing on its vessel.
18

19 12. Defendant breached its duty in that it suffered a COVID-19 outbreak on
20 the voyage just prior to the March 8, 2020 sailing, and yet it made the conscious
21 decision to continue sailing the voyage that began on March 8, 2020, with another
22 three thousand passengers on an infected ship.
23
24

25 13. Specifically, Defendant's corporate office was aware of the outbreak,
26 and went as far as to provide vouchers to the passengers to buy lunch, while they
27
28

1 delayed the sailing for six hours so that they could further disinfect the ship prior to
2 sailing.
3

4 14. In continuing to sail with another three thousand passengers, including
5 Plaintiffs, on March 8, 2020, knowing that the ship and crew had already been
6 exposed to COVID-19, the Defendant, PRINCESS, has exposed Plaintiffs to actual
7 risk of immediate physical injury.
8

9 15. Defendant is further negligent in failing to have proper screening
10 protocols for COVID-19 prior to boarding the passengers on Plaintiffs' voyage,
11 despite their experience of outbreaks on multiple ships prior to the March 8, 2020
12 sailing, including the outbreak on the subject ship just one week prior.
13

14 16. To add insult to injury, the Defendant, PRINCESS' corporate office,
15 was aware of an outbreak of COVID-19 on the March 8, 2020 sailing and failed to
16 even attempt to quarantine any of the passengers onboard. They didn't even bother
17 to notify the passengers that there was an actual outbreak, allowing the sailing to
18 continue as if it were a normal cruise, up until the time it returned to Australia three
19 days early.
20
21

22 17. As a result of the Defendant's lackadaisical approach to the safety of
23 Plaintiffs, its passengers and crew aboard the Ruby Princess, Plaintiffs contracted
24 COVID-19.
25

26 18. Finally, Defendant PRINCESS's corporate office is negligent in failing
27 to adequately warn Plaintiffs about the potential exposure to COVID-19 prior to
28

1 boarding the ship on March 8, 2020, and again during the sailing of said cruise.
2 Defendant had actual knowledge of passengers and crew members with symptoms
3 of coronavirus during the March 8, 2020 sailing and failed to inform Plaintiffs at any
4 time prior to boarding, or while they were already onboard, that they were exposed
5 to COVID-19.
6

7
8 19. If Plaintiffs had knowledge of this actual risk of exposure prior to
9 boarding, they would have never boarded the ship, and they would've boarded the
10 first flight out of Australia and returned home. Due to Defendant's outright
11 negligence in failing to warn Plaintiffs of the actual risk of exposure to COVID-19
12 aboard its infected ship, Plaintiffs disembarked early and anxiously awaited their fate,
13 until they flew back to Hawaii where they continued to remain quarantined in their
14 homes after testing positive for the Coronavirus.
15
16



1 20. As a direct and proximate result of the negligence of the Defendant,
2 PRINCESS, Plaintiff, JOSEPH ULI'I, JR., is suffering with COVID-19 in about his
3 body, suffered pain therefrom, physical handicap, loss of earnings, incurred medical,
4 nursing, attendant care, suffered emotional distress and continues to suffer emotional
5 distress; said injuries are and/or can be permanent and continuing in their nature and
6 Plaintiff will suffer such losses and impairments in the future.
7
8

9 21. As a direct and proximate result of the negligence of the Defendant,
10 PRINCESS, Plaintiff, TIARE ULI'I, is suffering with COVID-19 in about her body,
11 suffered pain therefrom, physical handicap, loss of earnings, incurred medical,
12 nursing, attendant care, suffered emotional distress and continues to suffer emotional
13 distress; said injuries are and/or can be permanent and continuing in their nature and
14 Plaintiff will suffer such losses and impairments in the future.
15
16

17 22. As a direct and proximate result of the negligence of the Defendant,
18 PRINCESS, Plaintiff, ELENA-PATRICE ULI'I, is suffering with COVID-19 in
19 about her body, suffered pain therefrom, physical handicap, loss of earnings, incurred
20 medical, nursing, attendant care, suffered emotional distress and continues to suffer
21 emotional distress; said injuries are and/or can be permanent and continuing in their
22 nature and Plaintiff will suffer such losses and impairments in the future.
23
24

25 WHEREFORE, Plaintiffs demand judgment against Defendant, PRINCESS
26 CRUISE LINES LTD., for damages suffered as result of their negligence and a trial
27 by jury on all issues triable.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT II

**(GROSS NEGLIGENCE AGAINST DEFENDANT PRINCESS CRUISE
LINES LTD.)**

Plaintiffs re-allege all allegations set out in paragraphs 1 through 22 above as if alleged fully herein.

23. Defendant, Princess’ corporate office’s conduct in deciding to continue to sail the Ruby Princess with Plaintiffs, knowing that the ship was infected from a prior voyage and prior crew members who came down with symptoms of COVID-19, on board with Plaintiffs, shows a lack of any care on the part of Defendant, amounting to gross negligence. Defendant knew how dangerous it was to expose Plaintiffs and the rest of its passengers to COVID-19 in light of its experience with the Diamond Princess and two sailings on the Grand Princess, and yet it departed from what a reasonably careful cruise line would do under the circumstances in continuing to sail with Plaintiffs.

24. Moreover, Defendant’s corporate office’s conduct in failing to warn Plaintiffs of their actual risk of harm in being exposed to COVID-19, either prior to boarding, or while they were already onboard, in light of prior passengers and crew members, who came down with symptoms from the prior voyage, amounts to an extreme departure of a what a reasonably careful cruise line would do.

1 25. Defendant, PRINCESS' corporate office chose to place profits over the
2 safety of its passengers, crew and the general public in continuing to operate business
3 as usual, despite their knowledge of the actual risk of injury to Plaintiffs.
4

5 26. As a direct and proximate result of the gross negligence of the
6 Defendant, PRINCESS, Plaintiff, JOSEPH ULI'I, JR., is suffering with COVID-19
7 in about his body, suffered pain therefrom, physical handicap, loss of earnings,
8 incurred medical, nursing, attendant care, suffered emotional distress and continues
9 to suffer emotional distress; said injuries are and/or can be permanent and continuing
10 in their nature and Plaintiff will suffer such losses and impairments in the future.
11

12 27. As a direct and proximate result of the gross negligence of the
13 Defendant, PRINCESS, Plaintiff, TIARE ULI'I, is suffering with COVID-19 in
14 about her body, suffered pain therefrom, physical handicap, loss of earnings, incurred
15 medical, nursing, attendant care, suffered emotional distress and continues to suffer
16 emotional distress; said injuries are and/or can be permanent and continuing in their
17 nature and Plaintiff will suffer such losses and impairments in the future.
18

19 28. As a direct and proximate result of the gross negligence of the
20 Defendant, PRINCESS, Plaintiff, ELENA-PATRICE ULI'I, is suffering with
21 COVID-19 in about her body, suffered pain therefrom, physical handicap, loss of
22 earnings, incurred medical, nursing, attendant care, suffered emotional distress and
23 continues to suffer emotional distress; said injuries are and/or can be permanent and
24
25
26
27
28

1 continuing in their nature and Plaintiff will suffer such losses and impairments in the
2 future.

3
4 WHEREFORE, Plaintiffs demand punitive damages against Defendant,
5 PRINCESS CRUISE LINES LTD. as result of their gross negligence and a trial by
6 jury on all issues triable.
7

8 **DEMAND FOR JURY TRIAL**

9 The Plaintiffs hereby demand trial by jury of all issues so triable of right.

10 DATED this 9th day of June, 2020.

11 Michael A. Simmrin
12 SIMMRIN LAW GROUP
13 3500 W. Olive Avenue, Suite 300
14 Burbank, CA 91505
15 Tel.: (954) 476-1000

16 By */s/ Michael A. Simmrin*
17 MICHAEL A. SIMMRIN
18 California Bar No. 238092

19 Debi F. Chalik (Pro Hac Vice Pending)
20 CHALIK AND CHALIK, P.A.
21 Attorneys for Plaintiff
22 10063 N. W. 1st Court
23 Plantation, Florida 33324
24 Tel.: (954) 476-1000

25 By */s/ Debi F. Chalik*
26 DEBI F. CHALIK
27 Florida Bar No. 179566
28

1 MARY E. ALEXANDER, ESQ. (SBN: 104173)
2 Mary Alexander & Associates, P.C.
3 44 Montgomery Street, Suite 1303
4 San Francisco, California 94104
5 Telephone: (415) 433-4440
6 Facsimile: (415) 433-5440
7 Email: malexander@maryalexanderlaw.com

8 ELIZABETH J. CABRASER (SBN: 083151)
9 Lieff Cabraser Heimann & Bernstein, LLP
10 275 Battery Street, 29th Floor
11 San Francisco, CA 94111-3339
12 Telephone: (415) 956-1000
13 Facsimile: (415) 956-1008
14 Email: ecabramer@lchb.com

15 GRETCHEN NELSON (SBN: 112566)
16 Nelson & Fraenkel LLP
17 601 So. Figueroa Street, Suite 2050
18 Los Angeles, CA 90017
19 Telephone: (213) 622-6469
20 Facsimile: (213) 622-6019
21 Email: gnelson@nflawfirm.com

22 *Attorneys for Plaintiffs*
23 [Additional counsel on signature page]

24 UNITED STATES DISTRICT COURT
25 CENTRAL DISTRICT OF CALIFORNIA

26 DUC CHUNG, BERNETTA EVERETT,
27 DWIGHT EVERETT, DEBRA
28 LEONELLI, DAVID REGE, CONNIE
SIMMONS, JAMES SIMMONS, and
MICHAEL SIMMONS on behalf of
themselves and all others similarly
situated,

Plaintiffs,

vs.

CARNIVAL CORPORATION;
CARNIVAL PLC and PRINCESS
CRUISE LINES LTD.,

Defendants.

Case No.: 2:20-cv-04954

**CLASS ACTION COMPLAINT
FOR DAMAGES**

1. NEGLIGENCE
2. GROSS NEGLIGENCE
3. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
4. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

DEMAND FOR JURY TRIAL

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COMPLAINT AND JURY DEMAND

Individual and representative Plaintiffs DUC CHUNG, BERNETTA EVERETT, DWIGHT EVERETT, CONNIE SIMMONS, JAMES SIMMONS, and MICHAEL SIMMONS, bring this action for themselves and on behalf of all persons similarly situated, including Individual Plaintiffs DEBRA LEONELLI and DAVID REGE, and the more than 2000 other passengers who sailed on the roundtrip Motor Vessel (“M/V”) GRAND PRINCESS cruise from San Francisco, California on February 11, 2020, to Mexico, against Defendants, PRINCESS CRUISE LINES LTD. (“PRINCESS”), its parent companies CARNIVAL CORPORATION & CARNIVAL PLC (collectively, “CARNIVAL”) and allege:

THE PARTIES

1. Individual and representative Plaintiff Duc Chung is *sui juris*, and is a resident of Fresno County, California and was a passenger onboard the Grand Princess cruise from February 11, 2020, to disembarkation on February 21, 2020.
2. Individual and representative Plaintiff Bernetta Everett is *sui juris*, and is a resident of Ventura County, California and was a passenger onboard the Grand Princess cruise from February 11, 2020, to disembarkation on February 21, 2020.
3. Individual and representative Plaintiff Dwight Everett is *sui juris*, and is a resident of Ventura County, California and was a passenger onboard the Grand Princess cruise from February 11, 2020, to disembarkation on February 21, 2020.
4. Individual and representative Plaintiff Connie Simmons is *sui juris*, and is a resident of San Joaquin County, California and was a passenger onboard the Grand Princess cruise from February 11, 2020, to disembarkation on February 21, 2020.
5. Individual and representative Plaintiff James Simmons is *sui juris*, and is a resident of Fresno County, California and was a passenger onboard the Grand Princess cruise from February 11, 2020, to disembarkation on February 21, 2020.

1 6. Individual and representative Plaintiff Michael Simmons is *sui juris*,
2 and is a resident of San Joaquin County, California and was a passenger onboard
3 the Grand Princess cruise from February 11, 2020, to disembarkation on February
4 21, 2020.

5 7. Individual Plaintiff Debra Leonelli is *sui juris*, and is a resident of San
6 Francisco County, California and was a passenger onboard the Grand Princess
7 cruise from February 11, 2020 through her disembarkation on or about March 10,
8 2020.

9 8. Individual Plaintiff David Rege is *sui juris*, and is a resident of San
10 Francisco County, California and was a passenger onboard the Grand Princess
11 cruise from February 11, 2020 through his disembarkation on or about March 10,
12 2020.

13 9. Defendant CARNIVAL CORPORATION was incorporated in 1972 in
14 Panama and has its headquarters in Miami, Florida.

15 10. Defendant CARNIVAL PLC was incorporated in 2000, in Wales,
16 United Kingdom. It also has its headquarters in Miami, Florida.

17 11. Upon information and belief, Defendant PRINCESS CRUISE LINES
18 LTD. is incorporated in Bermuda, with its headquarters in Santa Clarita, California.

19 12. Upon information and belief, at all times hereto, CARNIVAL
20 CORPORATION, CARNIVAL PLC, and PRINCESS advertised, marketed, sold,
21 and profited (directly or indirectly) from and owned, controlled, and operated the
22 cruise ship, M/V GRAND PRINCESS.

23 **ALTER EGO/PIERCING CORPORATE VEIL**

24 13. Defendants CARNIVAL CORPORATION, CARNIVAL PLC, AND
25 PRINCESS are alter egos and/or agents of each other such that the corporate form
26 should be disregarded.

27 14. CARNIVAL CORPORATION and CARNIVAL PLC operate as a
28 single economic enterprise. They share a senior executive management team and

1 identical Boards of Directors. Both CARNIVAL CORPORATION and
2 CARNIVAL PLC share a single headquarters in Miami, Florida.

3 15. As described by CARNIVAL CORPORATION in a filing with the
4 Securities and Exchange Commission (“SEC”), “Carnival Corporation and Carnival
5 plc operate a dual listed company (‘DLC’), whereby the businesses of Carnival
6 Corporation and Carnival plc are combined through a number of contracts and
7 through provisions in Carnival Corporation’s Articles of Incorporation and By-
8 Laws and Carnival plc’s Articles of Association.”

9 16. Plaintiffs bring this lawsuit against CARNIVAL CORPORATION and
10 CARNIVAL PLC individually, but because the entities work as alter-egos and/or
11 agents of one another, Plaintiff refers to them collectively throughout this
12 Complaint as “CARNIVAL.”

13 17. In a federal criminal plea agreement signed by CARNIVAL in 2016,
14 CARNIVAL described PRINCESS as one of several “operating lines” that together
15 comprise the “Carnival Group” of companies. CARNIVAL stated that Princess and
16 the other cruise ship operating lines are semi- autonomous entities within the
17 Carnival Corporation and Carnival plc (formerly P&O Princess Cruises plc)
18 corporate umbrella.

19 18. In that 2016 federal criminal plea agreement, CARNIVAL stated that
20 it “currently monitors and supervises environmental, safety, security, and regulatory
21 requirements for Princess and other Carnival brands. Carnival Corporation & plc
22 operate a total of 101 ships visiting 700 ports around the world, including most
23 major ports in the United States.”

24 19. CARNIVAL has ownership and control over PRINCESS, which is
25 organized under Holland America Group within CARNIVAL. CARNIVAL has
26 claimed in filings with the SEC that it wholly owns PRINCESS as a subsidiary.

27 20. CARNIVAL and PRINCESS share the same Board of Directors and
28 almost all of the same executive officers, and appear to use the same assets.

1 the Passage Contract, by naming this District as a proper venue, Defendants have
2 consented to personal jurisdiction in this District.

3 29. Each of the facts pleaded herein independently, but also all of these
4 facts together, are sufficient to render the exercise of jurisdiction by this Court over
5 Defendants permissible under traditional notions of fair play and substantial justice.

6 VENUE

7 30. Venue in the Central District of California is proper under 28 U.S.C. §
8 1391 because Defendants are deemed to reside in any judicial district in which they
9 are subject to personal jurisdiction.

10 31. Additionally, without conceding the enforceability of the Passage
11 Contract, Plaintiffs acknowledge the inclusion in the Passage Contract of a venue
12 selection provision designating the United States District Court for the Central
13 District of California in Los Angeles as a proper venue for this action.

14 FACTUAL BACKGROUND

15 32. In December 2019, a new strain of Coronavirus known as COVID-19
16 or SARS-CoV-2 was first observed in humans in China. The virus quickly spread
17 through China and Asia and has caused a global pandemic. Infection with COVID-
18 19 is generally associated with symptoms such as fever, a dry cough, shortness of
19 breath, infection, pneumonia, and it can be fatal.

20 33. In addition to the cold- and flu-like symptoms COVID-19 patients
21 typically experience, the virus has been linked to loss of taste and smell, blood
22 clots, severe strokes, heart inflammation, acute kidney disease, intestinal damage,
23 liver damage, and neurological problems.¹ Clinicians and public health experts
24 continue to learn more about the virus, its effects on the human body, and the

25 _____
26 ¹ Lenny Bernstein, Carolyn Y. Johnson, Sarah Kaplan and Laurie McGinley.
27 Coronavirus destroys lungs. But doctors are finding its damage in kidneys, hearts,
28 and elsewhere. The Washington Post. April 15, 2020.
https://www.washingtonpost.com/health/coronavirus-destroys-lungs-but-doctors-are-finding-its-damage-in-kidneys-hearts-and-elsewhere/2020/04/14/7ff71ee0-7db1-11ea-a3ee-13e1ae0a3571_story.html (last visited April 29, 2020).

1 residual impact on the health of those who have been exposed to or infected with
2 COVID-19.

3 34. As of the filing of this complaint, there have been over 1.8 million
4 cases and over 106,000 deaths in the United States as a result of COVID-19. Over
5 2,600 cases and, as of this filing, 43 deaths have been reported in San Francisco, at
6 least three of which were due to infections contracted while onboard the M/V
7 GRAND PRINCESS—a ship owned and operated by Defendants.

8 35. On January 30, 2020, the World Health Organization declared
9 COVID-19 a global health emergency.

10 36. In early February 2020, experts in the European Union, led by
11 epidemiologist Dr. Christou Hadjichristodoulou, released guidelines for the cruise
12 industry that included an outline of the risk of COVID-19 outbreaks aboard cruise
13 ships and recommended response protocols.² Specifically, the guidelines directed
14 that, in the event of a COVID-19 case, close contacts of the case should be
15 quarantined in their cabin or on shore, and “casual contacts” should be
16 disembarked.³

17 37. Defendants CARNIVAL and PRINCESS represent that they have a
18 commitment to “the health, safety, and security” of their passengers and promote
19 their business as one that “always strives to be free of injuries, illness and loss.”⁴

20 ² Interim Advice for Preparedness and Response to Cases of Acute Respiratory
21 Disease at Points of Entry in the European Union (EU) / EEA Member States (MS):
22 Advice for ship operators for preparedness and response to the outbreak of 2019-
23 nCoV acute respiratory disease, Feb. 3, 2020,
24 [https://www.gac.com/491364/siteassets/about-gac/coronavirus/eu-interim-
advice_2019-ncov_maritime_4_2_2020_f.pdf](https://www.gac.com/491364/siteassets/about-gac/coronavirus/eu-interim-advice_2019-ncov_maritime_4_2_2020_f.pdf) (last visited April 6, 2020); *see also*
25 Matt Apuzzo, Motoko Rich and David Yaffe-Bellany, *Failures on Diamond
Princess Shadow Another Cruise Ship Outbreak*, The New York Times, March 8,
26 2020, [https://www.nytimes.com/2020/03/08/world/asia/coronavirus-cruise-
ship.html](https://www.nytimes.com/2020/03/08/world/asia/coronavirus-cruise-ship.html) (last visited April 6, 2020).

27 ³ Healthy GateWays, Algorithm for decision making in response to an event of a
28 suspect case of COVID-19,
<https://www.nytimes.com/2020/03/08/world/asia/coronavirus-cruise-ship.html> (last
visited April 6, 2020).

⁴ Carnival Health, Environment, Safety, Security & Sustainability Policy &

1 They further assert that they “[s]upport a proactive framework of risk mitigation in
2 the areas of HESS [Health, Environment, Safety, Security] aimed at preventing,
3 monitoring and responding to threats.”⁵

4 38. However, in or before early February 2020, Defendants became aware
5 of an outbreak of COVID-19 aboard the cruise ship the DIAMOND PRINCESS,
6 which is operated by CARNIVAL and PRINCESS. The outbreak originated on the
7 DIAMOND PRINCESS while the vessel was docked in Yokohama, Japan. Ten
8 cases were originally diagnosed, and that number rapidly escalated to over 700
9 cases—over one-fifth of the passengers onboard. Investigative reporting about the
10 Diamond Princess alleges that well after CARNIVAL and PRINCESS became
11 aware of the first case aboard the ship, Defendants worked to “keep the fun going”
12 by “encouraging [guests] to mingle.”⁶

13 39. To date, 14 of the DIAMOND PRINCESS’ passengers have died as a
14 result of COVID-19,⁷ and cruises run by CARNIVAL have been identified as
15 responsible for more than 1,500 positive COVID-19 infections, and almost 40
16 deaths.

17 40. On February 11, 2020—approximately ten days after Defendants
18 learned about the infection aboard the DIAMOND PRINCESS—Defendants
19 boarded Plaintiffs and over 2,000 other passengers onto the M/V GRAND
20

21 Governance, Carnival Health, Environment, Safety, Security & Sustainability
22 Policy & Governance, [https://www.carnivalcorp.com/leading-responsibly/health-
environment-safety-security-sustainability-policy-governance/](https://www.carnivalcorp.com/leading-responsibly/health-environment-safety-security-sustainability-policy-governance/) (last visited April 7,
23 2020).

24 ⁵ Carnival Corporation & PLC Health, Environmental, Safety, Security, and
25 Sustainability Corporate Policy, [https://www.carnivalcorp.com/static-
files/0b8327aa-c3be-4022-a1a5-a6dad7123af7](https://www.carnivalcorp.com/static-files/0b8327aa-c3be-4022-a1a5-a6dad7123af7) (last visited April 7, 2020).

26 ⁶ Austin Carr and Chris Palmieri, *Socially Distance This: Carnival Executives
27 Knew They Had a Virus Problem, But Kept the Party Going*, Bloomberg, April 16,
2020, <https://www.bloomberg.com/features/2020-carnival-cruise-coronavirus/> (last
visited April 20, 2020).

28 ⁷ Lauren Smiley, *27 Days in Tokyo Bay: What Happened on the Diamond Princess*,
Wired, May 13, 2020, [https://www.wired.com/story/diamond-princess-coronavirus-
covid-19-tokyo-bay/](https://www.wired.com/story/diamond-princess-coronavirus-covid-19-tokyo-bay/).

1 PRINCESS for a roundtrip voyage to Mexico without conducting any effective
2 medical screenings for passengers and without providing any additional
3 information about best practices to mitigate or prevent the spread of COVID-19.

4 41. Upon information and belief, throughout the course of the 10-day
5 voyage to Mexico, Defendants did not alter their on-ship protocols, event
6 itineraries, or cleaning and disinfectant practices in order to prevent the spread of
7 COVID-19. Defendants did not, for example, institute any medical examination or
8 screening procedures for passengers leaving and returning to the ship at any of the
9 M/V GRAND PRINCESS's ports of call. Nor did Defendants provide passengers
10 onboard the M/V GRAND PRINCESS any information about COVID-19.

11 42. On or around February 19, 2020, Defendants became aware of at least
12 one passenger suffering from COVID-19 symptoms onboard the M/V GRAND
13 PRINCESS, but they did not alert Plaintiffs or other passengers aboard the ship,
14 and did not put into place any quarantine requirements or shelter-in-place and social
15 distancing protocols.

16 43. According to CARNIVAL's Chief Medical Officer, Grant Tarling,
17 MD, MPH, Defendants believed the infected passenger was carrying the virus when
18 he boarded the M/V GRAND PRINCESS on February 11, 2020, but because
19 Defendants did not provide any screening for passengers, they were unaware of his
20 condition.⁸

21 44. Dr. Tarling reported that the infected passenger sought medical
22 treatment from the medical center onboard the M/V GRAND PRINCESS on
23 February 20, 2020. The passenger reported suffering from "acute respiratory
24 distress" for about a week before seeking treatment. Dr. Tarling did not say whether
25 the passenger had sought any medical help prior to February 20, 2020. Upon
26

27 ⁸ Thomas Fuller, John Eligon, and Jenny Gross, *Cruise Ship, Floating Symbol of*
28 *America's Fear of Coronavirus, Docks in Oakland*, The New York Times, March
9, 2020, [https://www.nytimes.com/2020/03/09/us/coronavirus-cruise-ship-oakland-
grand-princess.html](https://www.nytimes.com/2020/03/09/us/coronavirus-cruise-ship-oakland-grand-princess.html) (last visited April 7, 2020).

1 information and belief, this information would have triggered mandatory reporting
2 under 42 CFR 71.1 *et seq.* and constitutes a “hazardous condition” per 33 CFR §
3 160.216.⁹

4 45. While onboard the M/V GRAND PRINCESS, Plaintiff Connie
5 Simmons became extremely ill and suffered from a fever. The cabin steward visited
6 her room and refused to enter. Following this visit, on the seventh day of the cruise,
7 a cruise ship staff member came to her room in full hazmat gear. A physician never
8 visited her. Instead medical personnel aboard the ship repeatedly told her that she
9 would have to visit medical facilities onboard, even though she was unable to walk
10 that far. After disembarking from the trip on February 21, 2020, Connie Simmons
11 suffered coughing, shortness of breath, blood clots in her right lung, and various
12 other ailments forcing her to take over five weeks off of work.

13 46. Plaintiff Dwight Everett also became ill while onboard. On or around
14 February 15, Mr. Everett lost his appetite and suffered from other symptoms
15 consistent with COVID-19. He chose to self-isolate in his cabin. After
16 disembarking from the cruise and returning to his home, Mr. Everett tested positive
17 for COVID-19.

18 47. Upon information and belief, at least three other passengers on the
19 M/V GRAND PRINCESS’s Mexico trip suffered from COVID-19 symptoms while
20 on the vessel, exposing other passengers, including Plaintiffs, and crew members
21 onboard the ship to the virus. At least 100 passengers who traveled on board the
22 M/V GRAND PRINCESS have tested positive for COVID-19, and at least two
23 passengers who traveled on the M/V GRAND PRINCESS’s Mexico trip died after
24

25 ⁹ Section 160.216 requires that “[w]henver there is a hazardous condition ... on
26 board a vessel or caused by a vessel or its operation, the owner, agent, master,
27 operator, or person in charge must immediately notify the nearest Coast Guard
28 Sector Office” A “[h]azardous condition means any condition that may
adversely affect the safety of any vessel ... or the environmental quality of any port,
harbor, or navigable waterway of the United States. It may, but need not,
involve ... injury or illness of a person aboard” 33 CFR § 160.202 (emphasis
added).

1 disembarking.¹⁰ One of these fatalities was the first-reported death caused by
2 COVID-19 in California.¹¹

3 48. On February 21, 2020, the M/V GRAND PRINCESS arrived at port in
4 San Francisco and most of the passengers from the Mexico trip disembarked,
5 though some remained onboard to travel on the ship's subsequent voyage headed to
6 Hawaii.

7 49. Plaintiff Duc Chung became ill the day after disembarking from the
8 M/V GRAND PRINCESS. He suffered from a cough, sore throat, irritated eyes,
9 and other symptoms. He reported himself to the public health department, and self-
10 quarantined for five days, during which he was off of work.

11 50. Additionally, in the days following his trip on the M/V GRAND
12 PRINCESS, Plaintiff James Simmons suffered from a sore throat, cough, a fever
13 and chills. He was forced to miss eight days of work, five of which were due to his
14 having to self-quarantine.

15 51. On February 25, 2020, CARNIVAL and PRINCESS emailed Plaintiffs
16 and their fellow passengers that had traveled on the M/V GRAND PRINCESS's
17 trip to Mexico alerting them that some of their fellow passengers had suffered from
18 COVID-19 and that they may have been exposed to COVID-19.

19
20
21 ¹⁰ Mark Berman, *Two Grand Princess passengers die from coronavirus, officials*
22 *say*, The Washington Post, March 25, 2020,
23 [https://www.washingtonpost.com/nation/2020/03/25/two-grand-princess-](https://www.washingtonpost.com/nation/2020/03/25/two-grand-princess-passengers-died-coronavirus-officials-say/)
24 [passengers-died-coronavirus-officials-say/](https://www.washingtonpost.com/nation/2020/03/25/two-grand-princess-passengers-died-coronavirus-officials-say/) (last visited May 19, 2020).

25 ¹¹ It has since been discovered that other Californians suffered from and died as a
26 result of COVID-19 prior to the February 11, 2020 cruise aboard the M/V GRAND
27 PRINCESS. Nevertheless, the death of a Placer County resident who traveled on
28 the M/V GRAND PRINCESS's February 11, 2020 cruise to Mexico spurred the
state's initial stay-at-home orders. *See* Placer County Announces Death of Patient
with COVID-19, March 4, 2020, [https://www.placer.ca.gov/6438/Death-of-patient-](https://www.placer.ca.gov/6438/Death-of-patient-with-COVID-19)
[with-COVID-19](https://www.placer.ca.gov/6438/Death-of-patient-with-COVID-19) (last visited May 19, 2020); Bill Chapel, *Coronavirus Deaths in*
Washington and California, Where Gov. Declares Emergency, NPR, March 4,
2020, [https://www.npr.org/sections/health-](https://www.npr.org/sections/health-shots/2020/03/04/812121540/coronavirus-los-angeles-declares-emergency-and-u-s-reports-80-cases-in-13-states)
[shots/2020/03/04/812121540/coronavirus-los-angeles-declares-emergency-and-u-s-](https://www.npr.org/sections/health-shots/2020/03/04/812121540/coronavirus-los-angeles-declares-emergency-and-u-s-reports-80-cases-in-13-states)
[reports-80-cases-in-13-states](https://www.npr.org/sections/health-shots/2020/03/04/812121540/coronavirus-los-angeles-declares-emergency-and-u-s-reports-80-cases-in-13-states) (last visited May 19, 2020).

1 52. On March 4, 2020, Defendants alerted passengers who had embarked
2 upon the M/V GRAND PRINCESS on February 21, 2020, immediately following
3 Plaintiff's voyage, about a "small cluster of COVID-19 cases in Northern
4 California" related to Plaintiff's Mexico-bound trip aboard the ship. Upon
5 information and believe, Defendants knew at that time that M/V GRAND
6 PRINCESS passengers on the February 21, 2020, voyage were currently suffering
7 from COVID-19 and that there potentially an outbreak.

8 53. Spurred by information regarding conditions onboard the M/V
9 GRAND PRINCESS during its Hawaii voyage, and by the death of a passenger
10 who had been onboard the ship during Plaintiff's Mexico-bound trip, Governor
11 Gavin Newsom declared a state of emergency on March 4, 2020, to manage the
12 COVID-19 outbreak in California. As a result, the State of California refused to
13 allow the vessel into port in San Francisco, forcing the vessel to anchor off the
14 city's coast. Governor Newsom stated at a press conference that there were 11
15 passengers and 10 crew members experiencing symptoms.

16 54. On or about Thursday, March 5, 2020, two weeks after the M/V
17 GRAND PRINCESS sailed for Hawaii, Defendants instituted some changes in their
18 operation of the vessel, including cabin/state room quarantine, meal service within
19 the cabins/state rooms, and cessation of daily turndown service and communal
20 activities. Defendants had never instituted these protocols during Plaintiffs' trip,
21 despite knowing about the potential for contagion aboard the cruise ship, and
22 despite becoming aware, while the ship was still at sea, that at least one passenger
23 was suffering from COVID-19.

24 55. On or around March 6, 2020—two weeks after Plaintiffs disembarked
25 from their trip, and even longer after Defendants became aware a passenger was
26 suffering from COVID-19 symptoms onboard—Plaintiff Connie Simmons received
27 a letter from Defendants alerting her that she may have been exposed to COVID-19
28 while onboard the M/V GRAND PRINCESS. On information and belief, other

1 passengers from the instant voyage received similar correspondence from
2 Defendants.

3 56. At the time of this filing, Defendant CARNIVAL has cancelled future
4 cruises embarking from San Francisco through the end of 2020. However,
5 CARNIVAL's website indicates that it intends to begin operating certain cruise
6 ships as early as August 1, 2020, potentially posing grave threats to their
7 passengers, crew members, and the public health.¹²

8 57. If Plaintiffs had known the serious and actual risks of contracting or
9 spreading COVID-19 while onboard the M/V GRAND PRINCESS, Plaintiffs
10 would not have sailed on the February 11, 2020, roundtrip voyage to Mexico. Or, at
11 minimum, if they had been made aware after embarkation of the growing and
12 continued risk, they would have disembarked from the ship at one of its ports of
13 call.

14 58. As a direct and proximate result of Defendants' acts and omissions,
15 Plaintiffs Connie Simmons, James Simmons, Duc Chung, and Dwight Everett
16 became ill with COVID-19, and suffered from various symptoms, including loss of
17 appetite, coughing, sore throat, and blood clots. Plaintiffs Connie Simmons, Duc
18 Chung, and James Simmons were forced to miss multiple days of work.

19 59. As a direct and proximate result of the negligence and gross
20 negligence of Defendants in exposing Plaintiffs and Class Members to actual risk of
21 immediate physical injury, Plaintiffs and Class Members have suffered injuries and
22 emotional distress of the nature and type that reasonable persons would suffer under
23 the circumstances alleged in this Complaint, including, but not limited to, suffering
24 anguish, fright, horror, nervousness, grief, anxiety, worry, shock, humiliation and
25 shame.

26 60. Furthermore, as public health experts and physicians learn more about
27 the myriad ways COVID-19 attacks and damages the body, Plaintiffs and Class

28 ¹² See Carnival, Health and Safety Updates, <https://www.carnival.com/health-and-sailing-updates> (last visited May 31, 2020).

1 Members develop new and evolving medical fears and uncertainties that require
2 and will continue to require medical diagnostic exams. Plaintiffs and the Class
3 Members are suffering and will continue to suffer due to the ever-present fear and
4 anxiety that they will or may later experience negative health outcomes or
5 complications as a direct and proximate result of being exposed to, and potentially
6 contracting, COVID-19 because of Defendants' negligent and grossly negligent
7 acts and omissions.

8 61. Plaintiffs Duc Chung, Connie Simmons, and James Simmons
9 experienced a range of symptoms that manifest their exposure to and contraction of
10 COVID-19. Furthermore, it is expected that, as a result of Defendants' negligence
11 and gross negligence, these Plaintiffs and the Class will continue to suffer and will,
12 in the future, require medical services to monitor for as yet unidentified symptoms
13 or negative health outcomes related to COVID-19.

14 **NOTICE**

15 62. Section 16(A)(i) of the Passage Contract purports to require that
16 claimants provide notice to PRINCESS and CARNIVAL of any potential claims.
17 Although Plaintiffs do not concede that this provision is enforceable, Plaintiffs and
18 Class Members have complied with this requirement by providing written notice to
19 Defendants' electronically on April 27, 2020, and May 21, 2020.

20 **CLASS ACTION ALLEGATIONS**

21 63. Plaintiffs bring this lawsuit as a class action on behalf of themselves
22 and all similarly-situated persons pursuant to Federal Rules of Civil Procedure
23 23(a) and (b)(1), (b)(2), (b)(3), and/or (c)(4). This action satisfies the applicable
24 numerosity, commonality, typicality, adequacy, predominance, and/or superiority
25 requirements of those provisions.

26 64. The proposed Class is defined as follows: All persons in the United
27 States, who sailed as passengers on the M/V GRAND PRINCESS cruise from San
28 Francisco, California, leaving on February 11, 2020, roundtrip to Mexico.

1 65. Excluded from the proposed Class are: (1) CARNIVAL and
2 PRINCESS, any entity or division in which either have a controlling interest, and
3 its legal representatives, officers, directors, assigns and successors; (2) the judicial
4 officer(s) to whom this case is assigned and the judicial officer(s)' immediate
5 family and legal staff; and (3) governmental entities. Plaintiffs reserve the right to
6 amend the Class definition if discovery and further investigation reveal that the
7 Class should be expanded, otherwise divided into subclasses, or modified in any
8 other way.

9 66. The individual Plaintiffs named in this complaint support the use of the
10 class action mechanism to achieve economy, efficiency, fairness, and consistency
11 of result by determining the important common questions raised in this action on a
12 common basis.

13 A. **Numerosity**

14 67. There were, on information and belief, approximately 2,422
15 passengers on the M/V GRAND PRINCESS for the cruise that is the subject of this
16 action. Their exact number and identities can be readily ascertained from
17 Defendants' records. The individual joinder of all passengers is impractical, and the
18 class action procedure is more practical, cost-effective, inclusive, and efficient than
19 multiple lawsuits on the common questions of law and fact that unite the class, or
20 piecemeal and incomplete individual joinder. The disposition of the claims of these
21 Class Members in a single action will provide substantial benefits to all parties and
22 to the Court. Class Members are readily identifiable from information and records
23 in Defendants' possession, custody, or control, as well as from records kept by the
24 Department of Health and Human Services.

25 B. **Typicality**

26 68. The claims of Plaintiffs are typical of the claims of Class Members in
27 that Plaintiffs, like all Class Members, sailed on the leg of the M/V GRAND
28 PRINCESS cruise that began on February 11, 2020 and returned on February 21,

1 2020. Plaintiffs, like all Class Members, have been damaged by Defendants'
2 misconduct in that they sailed on a cruise they would not have sailed on and
3 suffered significant injury, emotional distress and economic damage caused by the
4 negligence of the Defendants. The factual bases of CARNIVAL and PRINCESS's
5 misconduct are common to all Class Members and represent a common thread of
6 misconduct resulting in injury to all Class Members.

7 **C. Adequate Representation**

8 69. Plaintiffs DUC CHUNG, BERNETTA EVERETT, DWIGHT
9 EVERETT, CONNIE SIMMONS, JAMES SIMMONS and MICHAEL SIMMONS
10 will fairly and adequately represent and protect the interests of the Class Members.
11 Plaintiffs DUC CHUNG, BERNETTA EVERETT, DWIGHT EVERETT,
12 CONNIE SIMMONS, JAMES SIMMONS and MICHAEL SIMMONS have
13 retained counsel with substantial experience in prosecuting class actions, aggregate
14 suits, and mass torts.

15 70. Plaintiffs DUC CHUNG, BERNETTA EVERETT, DWIGHT
16 EVERETT, CONNIE SIMMONS, JAMES SIMMONS, and MICHAEL
17 SIMMONS, and their counsel are committed to vigorously prosecuting this action
18 on behalf of all Class Members, and have the financial resources to do so. Neither
19 Plaintiffs DUC CHUNG, BERNETTA EVERETT, DWIGHT EVERETT,
20 CONNIE SIMMONS, JAMES SIMMONS, and MICHAEL SIMMONS, nor their
21 counsel have interests adverse to those of the Class Members.

22 **D. Predominance of Common Issues**

23 71. There are numerous questions of law and fact, including those related
24 to Defendants' knowledge, conduct, and duty throughout the events described in
25 this Complaint, common to Plaintiffs and Class Members that predominate over
26 any question affecting only individual Class Members, the answers to which will
27 advance resolution of the litigation as to all Class Members. These common legal
28 and factual issues include, *inter alia*:

- 1 a. what Defendants knew about the presence and risks associated
2 with the COVID-19 virus, and contagions generally, and when they knew it;
- 3 b. whether Defendants should have canceled the subject cruise to
4 avoid exposing passengers to a deadly pathogen and/or taken other steps to avoid
5 exposing passengers to a deadly pathogen;
- 6 c. whether, in light of the widespread knowledge of COVID-19
7 and Defendants' knowledge of the risk of contagion aboard cruise ships,
8 Defendants had a duty to conduct medical screenings of passengers prior to
9 boarding Plaintiffs and others onto the M/V GRAND PRINCESS on February 11,
10 2020;
- 11 d. whether Defendants had a duty to decontaminate the M/V
12 GRAND PRINCESS after they knew or should have known that individuals aboard
13 the M/V GRAND PRINCESS prior to the subject cruise were or were potentially
14 carriers of the COVID-19 virus;
- 15 e. whether Defendants had a duty to disclose to passengers
16 onboard the M/V GRAND PRINCESS that at least one person onboard the vessel
17 was experiencing symptoms of COVID-19, and the related risks that Plaintiffs
18 could contract and /or spread the virus;
- 19 f. whether Defendants had a duty to institute social distancing or
20 quarantine protocols on the ship when they became aware that at least one
21 passenger onboard was suffering from COVID-19 symptoms;
- 22 g. whether Defendants failed to disclose, during the vessel's trip or
23 in the days immediately following, that passengers and crew aboard the M/V
24 GRAND PRINCESS between February 11, 2020, and February 21, 2020, were or
25 were potentially carriers of the COVID-19 virus and other relevant information;
- 26 h. interpretation of the applicable contract documents and the
27 associated "Passenger Bill of Rights" incorporated therein;
- 28

1 i. whether Defendants acted as alter egos and/or agents, such that
2 they should be held jointly liable for the conduct alleged herein;

3 j. whether CARNIVAL is liable for the acts, omissions, and
4 violations described in this Complaint;

5 k. whether PRINCESS is liable for the acts, omissions, and
6 violations described in this Complaint; and

7 l. whether the conduct of any or all of the defendants warrants the
8 imposition of punitive damages to vindicate the societal interest in punishment and
9 deterrence.

10 **E. Superiority**

11 72. Plaintiffs and Class Members have all suffered and will continue to
12 suffer harm and damages as a result of CARNIVAL's and PRINCESS's unlawful
13 and wrongful conduct. A class action is superior to other available methods for the
14 fair and efficient adjudication of this controversy.

15 73. Absent a class action, most Class Members would likely find the cost
16 of litigating their claims prohibitively high and would therefore have no effective
17 remedy at law. Because of the relatively small size of the individual Class
18 Members' claims (compared to the cost of litigation), it is likely that only a few
19 Class Members could afford to seek legal redress for Defendants' misconduct.
20 Absent a class action, Class Members will continue to incur damages, and
21 Defendants' misconduct will continue without remedy.

22 74. Class treatment of common questions of law and fact is superior to
23 other available procedures, such as multiple individual actions or piecemeal
24 litigation because class treatment will conserve the resources of the courts and the
25 litigants, and will promote consistency and efficiency of adjudication.

26 **F. Limited Fund**

27 75. In an abundance of caution, Plaintiffs take note of the presently
28 apparent financial circumstances of CARNIVAL and/or PRINCESS to allege the

1 possibility that their assets and resources available to fairly compensate Plaintiffs
2 and Class Members, to satisfy appropriate punitive damages awards, and/or
3 otherwise fairly address the claims against them may constitute a “limited fund”
4 within the meaning of *Ortiz v. Fibreboard Corp.*, 527 U.S. 815 (1999), such that
5 class certification under Rule 23(b)(1)(B) is necessary and appropriate as a matter
6 of due process and equity.

7 **G. Mass Action**

8 76. In the alternative, this matter should proceed as a mass action, as
9 defined in 28 U.S.C. § 1332 (d)(11)(B)(i) and should be tried jointly on the ground
10 that plaintiffs’ claims involve common questions of law or fact, including as set
11 forth above.

12 77. Plaintiffs’ individual claims exceed the required jurisdictional amount
13 of \$75,000.00.

14 **CLAIMS FOR RELIEF**

15 **FIRST CAUSE OF ACTION**
16 **NEGLIGENCE AGAINST ALL DEFENDANTS**

17 78. Plaintiffs re-allege all allegations in all preceding paragraphs as if
18 alleged fully herein.

19 79. Defendants owed Plaintiffs, and the Class, who were passengers who
20 boarded the M/V GRAND PRINCESS on February 11, 2020, a duty to ensure that
21 they would not be exposed to an unreasonable risk of harm.

22 80. Likewise, Defendants owed Plaintiffs and the Class a duty to take
23 actions to prevent and mitigate the risk of threats to passengers’ health and safety,
24 including by ensuring that the M/V GRAND PRINCESS was properly cleaned,
25 disinfected, and safely maintained before and during the voyage.

26 81. Defendants knew or should have known that cruise ships pose an
27 especially severe risk of viral outbreak. Defendants knew or should have known
28 that cruise ships owned and operated by Defendants had been the sites of prior,
lethal outbreaks of COVID-19, and should have been aware of new guidelines for

1 the cruise industry published by Dr. Hadjichristoulou and a team of European
2 experts on February 3, 2020. In particular, Defendants had knowledge of the actual
3 risks facing passengers based on the outbreak of the virus on the M/V Diamond
4 Princess a mere three weeks prior to the instant outbreak.

5 82. Defendants knew or should have known that passengers boarding the
6 M/V GRAND PRINCESS could be carriers of COVID-19, and that crew members
7 aboard the M/V GRAND PRINCESS were or could have been exposed to COVID-
8 19 and were or could have been carriers of the virus, but did not institute any
9 screening procedures prior to the February 11, 2020, embarkation of the M/V
10 Grand Princess.

11 83. Defendants failed to do what a reasonably careful cruise ship owner
12 and operator would do under the circumstances.

13 84. Defendants breached their duty to Plaintiffs and the Class when, with
14 the aforementioned knowledge, Defendants nevertheless chose to embark on the
15 San Francisco-Mexico voyage.

16 85. Defendants also breached their duties when, with that same
17 knowledge, they chose not to screen or medically examine any passengers or crew
18 members, or prevent those infected with the virus from boarding the ship, prior to
19 embarkation on February 11, 2020, or throughout the cruise at any ports of call
20 after passengers had left and returned to the ship.

21 86. Additionally, Defendants breached their duties to Plaintiffs and the
22 Class when Defendants repeatedly failed to notify passengers aboard the M/V
23 GRAND PRINCESS during the instant voyage that passengers traveling alongside
24 them were suffering from COVID-19 symptoms.

25 87. If Defendants had adequately informed Plaintiffs and the Class prior to
26 boarding, or at any other time, of the relevant information in Defendants'
27 possession, including facts regarding Defendants' lack of adequate disinfecting
28 procedures on the M/V GRAND PRINCESS, lack of adequate quarantining

1 procedures, and the actual risk of exposure to COVID-19, Plaintiffs and the Class
2 could have made informed decisions about their health and their families' health,
3 including disembarking from or not boarding the vessel.

4 88. Defendants repeatedly breached their duties to Plaintiffs and the Class
5 when, throughout the San Francisco-Mexico voyage, with the aforementioned
6 knowledge, they repeatedly chose not to inform Plaintiffs of the continuing and
7 growing risks of contracting COVID-19, and chose not to provide Plaintiffs with
8 the informed option to disembark at one of the vessel's ports of call.

9 89. Finally, Defendants continued to breach their duties to Plaintiffs and
10 the Class when, after learning that at least one passenger onboard was suffering
11 from COVID-19 symptoms, they, *inter alia*: chose not to warn Plaintiffs' and the
12 Class of the potential for infection; failed to implement quarantine or social
13 distancing protocols; chose to continue operating large, public gatherings and
14 meals; chose to continue to operate daily turndown service; and chose to continue
15 hosting communal activities.

16 90. As a direct and proximate result of Defendants' failure to safeguard
17 Plaintiffs and the Class, Plaintiffs and the Class were at actual risk of immediate
18 physical injury.

19 91. As a direct and proximate result of Defendants' breach of their duties
20 of care, Plaintiff CONNIE SIMMONS has suffered weeks of illness, including a
21 cough, shortness of breath, and blood clots, and she was forced to stop working for
22 over five weeks.

23 92. As a direct and proximate result of Defendants' breach of their duties
24 of care, Plaintiff DUC CHUNG suffered from a fever, cough, sore throat, and other
25 symptoms that required him to self-quarantine and miss multiple days of work.

26 93. As a direct and proximate result of Defendants' breach of their duties
27 of care, Plaintiff JAMES SIMMONS suffered from sore throat, fever, chills, and a
28 cough that caused him to miss multiple days of work.

1 99. Defendants' conduct in deciding to continue to operate the M/V
2 GRAND PRINCESS with Plaintiffs and the Class aboard, even with the
3 aforementioned knowledge, demonstrates an intentional failure to do what a
4 reasonably careful cruise ship owner and operator would do under the
5 circumstances, exhibits a willful and conscious disregard for the safety of Plaintiffs
6 and the Class, and evidences recklessness and indifference by Defendants, which
7 constitutes gross negligence.

8 100. Defendants' failure to abide by the guidelines issued on February 3,
9 2020, by not disembarking, quarantining or otherwise sheltering in their cabins the
10 passengers and crew members known to have come into contact with the passenger
11 suffering from COVID-19 symptoms onboard the instant cruise demonstrates a
12 willful and conscious disregard for the rights and safety of others and amounts to an
13 extreme departure of what a reasonably careful cruise ship owner and operator
14 would do.

15 101. Defendants' choice not to warn Plaintiffs and the Class of their actual
16 risk of harm in being exposed to COVID-19 after learning about a passenger
17 onboard who came down with symptoms (and later died) constitutes a failure to
18 provide even a modicum of care to Plaintiffs and the Class. The continued and
19 repeated choice not to provide passengers with notice of the actual risks facing
20 them demonstrates a willful and conscious disregard for the rights and safety of
21 others and amounts to an extreme departure of what a reasonably careful cruise ship
22 owner and/or operator would do.

23 102. Moreover, Defendants' behavior demonstrated a willful and conscious
24 disregard for the rights and safety of others, and an extreme departure of what a
25 reasonably careful cruise ship owner and/or operator would do in their continued
26 and repeated choices to: not effectively sanitize and disinfect the M/V GRAND
27 PRINCESS during the San Francisco-Mexico voyage; not institute medical
28 screening and examinations for passengers and crew members; host large social

1 gatherings and meals; conduct daily turn-down service; and not implement
2 quarantine or social distance protocols at any point during the voyage. These
3 decisions manifest Defendants' utter failure to provide even a modicum of care to
4 Plaintiffs and the Class.

5 103. Defendants chose to place profits over people, including the safety of
6 their passengers, crew, and the general public in continuing to operate business as
7 usual, despite their knowledge of the actual—potentially lethal—risk to Plaintiffs
8 and the Class.

9 104. As a direct and proximate result of Defendants' conduct, Plaintiffs
10 were placed at actual, continual risk of immediate, and potentially fatal, physical
11 injury.

12 105. Indeed, as a direct and proximate result of Defendants' breach of their
13 duties of care, Plaintiff CONNIE SIMMONS has suffered weeks of illness,
14 including cough, shortness of breath, and blood clots, and she was forced to stop
15 working for over five weeks.

16 106. As a direct and proximate result of Defendants' breach of their duties
17 of care, Plaintiff DUC CHUNG suffered from a fever, cough, sore throat, and other
18 symptoms that required him to self-quarantine and miss multiple days of work.

19 107. As a direct and proximate result of Defendants' breach of their duties
20 of care, Plaintiff JAMES SIMMONS suffered from sore throat, fever, chills, and a
21 cough that caused him to miss multiple days of work.

22 108. As a direct and proximate result of Defendants' breach of their duties
23 of care, Plaintiff DWIGHT EVERETT contracted COVID-19, and was ill for
24 approximately 5 days while onboard the M/V GRAND PRINCESS.

25 109. Finally, as a direct and proximate result of Defendants' gross
26 negligence in exposing Plaintiffs and the Class to actual risk of immediate physical
27 injury, Plaintiffs and the Class have suffered emotional distress of the nature and
28 type that reasonable persons would suffer under the circumstances alleged in this

1 Complaint, including, but not limited to, suffering, anguish, fright, horror,
2 nervousness, grief, anxiety, worry, shock, humiliation and shame. They were
3 traumatized by the fear of developing COVID-19. It is expected that they will
4 continue to suffer and will, in the future, require medical services not of a kind
5 generally accepted as a typical part of daily life.

6 **THIRD CAUSE OF ACTION**
7 **NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS**

8 110. Plaintiffs re-allege all allegations in all preceding paragraphs as if
9 alleged fully herein.

10 111. Defendants knew or should have known of the actual risk of viral
11 contagion of COVID-19 aboard cruise ships, and, in light of the situation on the
12 Diamond Princess only 3 weeks prior to the instant voyage on the M/V GRAND
13 PRINCESS, Defendants knew or should have known that it was especially
14 dangerous to expose Plaintiffs and the rest of the Class to COVID-19.

15 112. Even in light of this information, however, Defendants failed to
16 implement any effective screening or medical examination procedures for
17 passengers boarding the ship prior to the voyage.

18 113. Defendants also knew or should have known that at least one
19 passenger traveling on the instant trip aboard the M/V GRAND PRINCESS was
20 experiencing symptoms of COVID-19 (that passenger eventually tested positive for
21 COVID-19).

22 114. Nevertheless, Defendants continually and repeatedly: failed to take
23 any effective actions to prevent or mitigate the spread of COVID-19; failed to alert
24 passengers to the possibility of infection aboard the ship; hosted and encouraged
25 participation in large group activities and events that Defendants knew could lead to
26 large-scale infection among the crew and passengers.

27 115. These choices by Defendants created a dangerous and threatening
28 environment in which Plaintiffs and the Class were forced to live for almost two

1 weeks, at all times directly at risk of becoming infected with, made ill by, and/or
2 spreading COVID-19.

3 116. As the direct and proximate result of Defendants' actions and
4 omissions throughout the duration of their voyage aboard the M/V GRAND
5 PRINCESS, Plaintiffs and members of the Class were in the "zone of danger,"
6 where they were at immediate risk of actual physical harm, including the potential
7 of contracting COVID-19, suffering from the illness—including experiencing
8 shortness of breath, coughing, body aches, fever, and/or any number of yet-to-be-
9 identified future ailments, such as liver damage, kidney failure, or blood clotting—
10 and potentially death as a result of the virus.

11 117. Plaintiffs and members of the Class experienced severe psychic
12 injuries, of the nature and type that reasonable persons would suffer under the
13 circumstances alleged in this Complaint, when they were forced to watch first hand
14 as their friends and family members became ill with COVID-19, feared for their
15 own safety and well-being, and continue to fear that they may begin exhibiting
16 symptoms or health complications not yet identified as a result of COVID-19.
17 Plaintiffs suffered physical and emotional injury as the direct and proximate result
18 of Defendants' misconduct.

19 118. As a direct and proximate result of Defendants' extreme departure
20 from the ordinary standard of care and their failure to meet their duties of care to
21 Plaintiffs and the Class by providing even scant care, Plaintiff CONNIE
22 SIMMONS has suffered weeks of illness, including cough, shortness of breath, and
23 blood clots, and she was forced to stop working for over five weeks.

24 119. As a direct and proximate result of Defendants' breach of their duties
25 of care, Plaintiff DUC CHUNG suffered from a fever, cough, sore throat, and other
26 symptoms that required him to self-quarantine and miss multiple days of work.

27 120. Plaintiff JAMES SIMMONS suffered from sore throat, fever, chills,
28 and a cough that caused him to miss multiple days of work.

1 that it was especially dangerous to expose Plaintiffs and the rest of the Class to
2 COVID-19.

3 126. By or before the time of boarding passengers onto the M/V GRAND
4 PRINCESS, on February 11, 2020, Defendants knew or should have known of the
5 extreme risks to health and safety—including the possibility of death—presented by
6 COVID-19.

7 127. In light of this knowledge and experience, and particularly given that
8 cruise ships present an especially heightened risk of contagion, Defendants
9 exhibited extreme and outrageous conduct when, *inter alia*, Defendants boarded
10 Plaintiffs and the Class onto the M/V GRAND PRINCESS on February 11, 2020,
11 without taking any effective measures to medically screen or examine passengers
12 for COVID-19 symptoms.

13 128. Defendants also knew or should have known during the instant trip
14 that at least one passenger aboard the M/V GRAND PRINCESS was experiencing
15 symptoms of COVID-19.

16 129. Defendants additionally acted extremely and outrageously when they
17 chose not to effectively clean, sanitize, sterilize, or disinfect the M/V GRAND
18 PRINCESS during the instant trip.

19 130. Defendants exhibited repeated and continued extreme and outrageous
20 conduct when Defendants failed to: alert Plaintiffs to the fact that at least one
21 passenger on the trip was experiencing COVID-19 symptoms and had come into
22 contact with passengers and crew members; notify Plaintiffs and the Class about the
23 actual and potential threat of exposure to, infection of, and the possibility of
24 spreading COVID-19 aboard the ship; failed to advise Plaintiffs and the Class about
25 the possibility and health benefits of disembarking during the trip, at one of the
26 vessel's ports of call.

27 131. Defendants continued to behave extremely and outrageously when,
28 after learning about the ill passenger, they: encouraged Plaintiffs and the Class to

1 continue mingling and participating in large group events and functions throughout
2 the duration of the trip; continued to provide turn down service to passengers
3 despite the fact that crew members had likely been exposed to COVID-19; and
4 failed to institute any policies for quarantine, isolation, or social distancing for
5 passengers.

6 132. As a direct and proximate result of Defendants' intentional and
7 reckless behavior and omissions, Plaintiffs and the Class suffered severe emotional
8 distress and physical harm.

9 133. Plaintiffs and the Class were forced to watch as their friends and
10 family members became ill with COVID-19, and, all the while, fear for their own
11 safety and well-being. Plaintiffs suffered physical and emotional injury as the direct
12 and proximate result of Defendants' misconduct, and Plaintiffs continue to suffer
13 from fear and anxiety that they may still begin exhibiting symptoms or experience
14 as-yet-unidentified complications due to their exposure to and potential contraction
15 of COVID-19 while aboard the M/V GRAND PRINCESS.

16 134. As a direct and proximate result of Defendants' extreme departure
17 from the ordinary standard of care and their failure to meet their duties of care to
18 Plaintiffs and the Class by providing even scant care,

19 135. As a direct and proximate result of Defendants' breach of their duties
20 of care, Plaintiff CONNIE SIMMONS has suffered weeks of illness, including
21 cough, shortness of breath, and blood clots, and she was forced to stop working for
22 over five weeks.

23 136. As a direct and proximate result of Defendants' breach of their duties
24 of care, Plaintiff DUC CHUNG suffered from a fever, cough, sore throat, and other
25 symptoms that required him to self-quarantine and miss multiple days of work.

26 137. Plaintiff JAMES SIMMONS suffered from sore throat, fever, chills,
27 and a cough that caused him to miss multiple of work.

28

1 138. As a direct and proximate result of Defendants' breach of their duties
2 of care, Plaintiff DWIGHT EVERETT contracted COVID-19 and was ill for
3 approximately 5 days while onboard the M/V GRAND PRINCESS.

4 139. Finally, as a direct and proximate result of Defendants' behavior,
5 which exposed Plaintiffs and the Class to actual risk of immediate physical injury,
6 Plaintiffs and the Class have suffered emotional distress of the nature and type that
7 reasonable persons would suffer under the circumstances alleged in this Complaint,
8 including, but not limited to, suffering, anguish, fright, horror, nervousness, grief,
9 anxiety, worry, shock, humiliation, and shame related to their own risk of
10 contracting COVID-19 and the suffering they witnessed among their fellow
11 passengers who contracted COVID-19. Plaintiffs and members of the class were
12 traumatized by the fear of their family members, friends and fellow passengers
13 developing COVID-19 and by the past and ongoing threat to their own health of
14 becoming infected with the virus and potentially suffering from as-yet-unidentified
15 negative health outcomes and complications.

16 140. Plaintiffs and Class members were endangered and harmed by
17 Defendants' actions when they were forced to travel on an infected vessel without
18 appropriate information about the risks facing them. It is expected that Plaintiffs
19 and the Class will continue to suffer and will, in the future, require medical services
20 not of a kind generally accepted as part of the wear and tear of daily life.

21 141. Throughout the events described in this Complaint, Defendants
22 repeatedly acted with conscious, callous, and/or reckless disregard for the rights,
23 interests, health and safety of their passengers, such that the imposition of punitive
24 damages, under CA Civil Code Section 3294 and/or all other applicable law, is
25 necessary and appropriate to punish them for their course of conduct, and to deter
26 them and others, and protect the public, from the consequences of similar conduct.

27
28

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves, and all others similarly situated, pray for judgment against Defendants, and each of them, as follows:

1. An order certifying the proposed Class pursuant to Fed. R. Civ. P. Rule 23(a) and (b)(1), (b)(2), (b)(3) and/or (c)(4), designating Plaintiffs DUC CHUNG, BERNETTA EVERETT, DWIGHT EVERETT, CONNIE SIMMONS, JAMES SIMMONS and MICHAEL SIMMONS as named representatives of the Class and designating the undersigned as Class Counsel;

2. An award of damages totaling in excess of Five Million Dollars (\$5,000,000.00), inclusive of compensatory damages for Plaintiffs' injuries, including emotional pain and suffering and any other damages allowed by law, in an amount to be proven at trial;

3. An award of the costs of Plaintiffs' and the Class's ongoing medical monitoring and diagnostic examinations required to diagnose, prevent, and/or treat current or future injury related to Plaintiffs' and Class Members' exposure to and potential contraction of COVID-19, in light of the evolving scientific understanding of the full risk and scope of health outcomes of the virus;

An injunction requiring Defendants to: disclose to future passengers the nature and rate of risk of communicable disease upon their cruise ships; implement disinfecting and sanitizing procedures on each of their ships in between and during voyages; implement appropriate social distancing and physical distancing protocols to avoid or reduce the transmission of communicable pathogens; disembark and quarantine passengers when Defendants become aware of a heightened risk of communicable disease aboard a ship; and canceling or discontinuing the operation of cruises when Defendants know or should have known of a potential deadly pathogen or similar aboard their ships.

4. An injunction requiring Defendants to: disclose to future passengers the nature and rate of risk of communicable disease upon their cruise ships; implement

1 disinfecting and sanitizing procedures on each of their ships in between and during
2 voyages; implement appropriate social distancing and physical distancing protocols to
3 avoid or reduce the transmission of communicable pathogens; disembark and
4 quarantine passengers when Defendants become aware of a heightened risk of
5 communicable disease aboard a ship; and canceling or discontinuing the operation of
6 cruises when Defendants know or should have known of a potential deadly pathogen
7 or similar aboard their ships.

8 5. An award of attorneys' fees and costs, as allowed by law;

9 6. An award of pre-judgment and post-judgment interest, as provided by
10 law;

11 7. Leave to amend this Complaint to conform to the evidence produced at
12 trial; and

13 8. For such other and further relief as the Court deems just and proper.

14 **DEMAND FOR JURY TRIAL**

15 Plaintiffs hereby demand a jury trial as provided by Rule 38(a) of the Federal
16 Rules of Civil Procedure.

17 Respectfully submitted,

18 Dated: June 4, 2020

19 NELSON & FRAENKEL LLP

20
21 By: /s/ Gretchen M. Nelson

22 Gretchen M. Nelson (112566)
gnelson@nflawfirm.com
23 Carlos F. Llinás Negret (284746)
cllinas@nflawfirm.com
24 601 So. Figueroa Street, Suite 2050
Los Angeles, CA 90017
25 Telephone: 213-622-6469
26 Facsimile: 213-622-6019
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: June 4, 2020

MARY ALEXANDER & ASSOCIATES, P.C.

By: /s/ Mary E. Alexander

Mary E. Alexander, Esq. (SBN 104173)
malexander@maryalexanderlaw.com
Brendan D.S. Way, Esq. (SBN 261705)
bway@maryalexanderlaw.com
44 Montgomery Street, Suite 1303
San Francisco, California 94104
Telephone: (415) 433-4440
Facsimile: (415) 433-5440

Dated: June 4, 2020

LIEFF CABRASER HEIMANN &
BERNSTEIN, LLP

By: /s/ Elizabeth J. Cabraser

Elizabeth J. Cabraser (SBN 083151)
ecabraser@lchb.com
Jonathan D. Selbin (SBN 170222)
jselbin@lchb.com
275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
Telephone: (415) 956-1000
Facsimile: (415) 956-1008

LIEFF CABRASER HEIMANN &
BERNSTEIN, LLP
Mark P. Chalos (*Pro Hac Vice* forthcoming)
mchalos@lchb.com
222 2nd Avenue South, Suite 1640
Nashville, TN 37201
Telephone: (615) 313-9000
Facsimile: (212) 313-9965

Attorneys for Plaintiffs

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES

SUSAN CRAWFORD and
SUSAN RANDOLPH

No. 2:20-cv-05546

Plaintiffs,

v.

PRINCESS CRUISE LINES LTD.,
Defendant.

COMPLAINT AND JURY DEMAND

Plaintiffs, by and through their undersigned counsel, hereby sues Defendant,
PRINCESS CRUISE LINES LTD. (hereinafter, "PRINCESS"), and alleges:

THE PARTIES AND JURISDICTION

1. This is an action seeking damages in excess of \$1,000,000.00 (One Million Dollars) exclusive of interest, costs and attorney's fees.

2. This Court has diversity subject matter jurisdiction pursuant to 28 U.S.C. § 1332 as this is a civil action in which the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States and/or citizens of a State and citizens or subjects of a foreign state.

1 3. This Court also has Admiralty subject matter jurisdiction pursuant to
2 28 U.S.C. § 1333 as this case involves a maritime tort. The type of incident and
3 injuries suffered by Plaintiffs had the potential to impact maritime commerce as
4 Plaintiffs are at serious risk of imminent harm as a result of being exposed to the
5 Coronavirus running rampant aboard the cruise ship upon which they are paying
6 passengers.
7

8
9 4. Plaintiff, SUSAN CRAWFORD is sui juris, is a resident of Santa
10 Clara County, California, and was a passenger onboard the Grand Princess.
11

12 5. Plaintiff, SUSAN RANDOLPH is sui juris, is a resident of Fulton
13 County, Ohio, and was a passenger onboard the Grand Princess.
14

15 6. Princess Cruise Lines LTD. is incorporated in Bermuda, with its
16 headquarters in Santa Clarita California. The action is being filed in this Court
17 pursuant to the terms and conditions of the Passenger Contract issued by
18 Defendant, Princess Cruise Lines Ltd.
19

20 7. At all times hereto, PRINCESS owned and operated the cruise ship the
21 Grand Princess.
22

23 8. This Court has personal jurisdiction over PRINCESS as PRINCESS'
24 principle place of business is located in Los Angeles County, Los Angeles.
25

26 9. PRINCESS conducts substantial business within the state of
27 California, including operating cruises from ports in San Francisco, San Diego and
28 Los Angeles.

1 10. PRINCESS markets cruise vacations to Californian residents and
2 employs thousands of Californian residents to work at its California headquarters.
3

4 11. Plaintiff SUSAN CRAWFORD was a passenger aboard the Grand
5 Princess which departed out of San Francisco on February 21, 2020 and had been
6 quarantined on said ship though Sunday, March 15, 2020, as a result of an outbreak
7 of COVID-19, and she contracted the disease.
8

9 12. Plaintiff SUSAN RANDOLPH was a passenger aboard the Grand
10 Princess which departed out of San Francisco on February 21, 2020 and had been
11 quarantined on said ship through Monday, March 16, 2020, as a result of an
12 outbreak of COVID-19, and she contracted the disease.
13

14 **FACTUAL BACKGROUND**
15

16 In the recent months, there has been a worldwide outbreak of a new strain of
17 the Corona virus, commonly known as COVID-19. The virus began in China in
18 December 2019, and has quickly spread throughout Asia, Europe and most
19 recently, North America. The virus causes temperature, a dry cough, and can be
20 fatal. There have been over One Hundred Thousand cases worldwide and over
21 Three Thousand deaths as result of COVID-19. Those fatalities have largely been
22 amongst the elderly population, and those with underlying medical complications.
23

24 COVID-19 really gained the attention of the public when the Diamond
25 Princess cruise ship, also owned and operated by Defendant, suffered an outbreak
26 of the disease at the beginning of February 2020 in Yokohama, Japan. The
27
28

1 outbreak began with ten cases, and rapidly multiplied to seven hundred cases, as a
2 result of the flawed two week quarantine on the ship. The Center for Disease
3 Control, (CDC) issued a statement on February 18, 2020, that “the rate of new
4 reports of positives new on board, (Diamond Princess), especially among those
5 without symptoms, highlights the high burden of infection on the ship and potential
6 for ongoing risk.” Seven of Defendant’s passengers died as a result of COVID-19.
7
8

9 It would only stand to reason, that having experienced such a traumatic
10 outbreak on board one of its vessels less than a month prior to the current voyage
11 on board the Grand Princess, that the Defendant would have learned to take all
12 necessary precautions to keep its passengers, crew and the general public safe.
13 Unfortunately, the Defendant PRINCESS did no such thing, which is why Plaintiffs
14 contracted the highly communicable disease COVID-19.
15
16

17 **COUNT I**
18 **(NEGLIGENCE AGAINST PRINCESS)**

19 Plaintiffs re-allege all allegations in paragraphs 1 through 12 above as if alleged
20 fully herein.
21

22 13. PRINCESS owed Plaintiffs, who are paying passengers who boarded
23 the Grand Princess on February 21, 2020, the duty to ensure that they would not be
24 exposed to unreasonable risk of harm that defendant knew or should have known
25 about while sailing on its vessel.
26
27
28

1 14. Defendant breached its duty in that it had knowledge that at least one
2 of its passengers from the prior voyage who disembarked Feb 21, 2020 had
3 symptoms of coronavirus, and yet it made the conscious decision to continue
4 sailing the voyage that began on February 21, 2020 with another three thousand
5 passengers on an infected ship.
6

7
8 15. Specifically, Defendant's corporate office was aware of at least two
9 passengers who disembarked its ship on February 21, 2020 in San Francisco, had
10 symptoms of the coronavirus. It went as far as to send emails on Wednesday
11 February 25, to passengers who disembarked the Grand Princess on February 21,
12 notifying them of the potential of exposure to the coronavirus while onboard their
13 cruise.
14

15
16 16. To make matters even worse, there are sixty two passengers on board
17 the Plaintiffs' cruise, who were also on the prior voyage, who were exposed to the
18 passengers that were confirmed to be infected, and later died.
19

20 17. In continuing to sail with another three thousand passengers including
21 Plaintiffs on February 21, 2020, knowing that some of those passengers and crew
22 had already been exposed to COVID-19, the Defendant PRINCESS knowingly
23 exposed Plaintiff's to the deadly disease, which they ended up contracting on said
24 ship.
25

26 18. Defendant is further negligent in failing to have proper screening
27 protocols for COVID-19 prior to boarding the passengers on Plaintiffs' voyage.
28

1 Despite the knowledge and experience Defendant's corporate office had with the
2 outbreak of the disease on the Diamond Princess just a mere three weeks prior to
3 the instant case, Defendant did not have proper screening protocol in place to
4 minimize the risk of exposure of the disease to its passengers and crew.
5

6 19. Prior to boarding the February 21, 2020 sailing on the Grand Princess,
7 passengers were simply asked to fill out a piece of paper confirming they were not
8 sick. Not one passenger was questioned, let alone examined in any capacity.
9 Incredibly, not one of those sixty two passengers or crew members who were
10 mixing and mingling with the infected prior passengers were ever examined during
11 the instant voyage until being tested for the virus on Thursday March 5, 2020, two
12 weeks after the ship sailed.
13
14
15

16 20. As a result of the Defendant's lackadaisical approach to the safety of
17 Plaintiffs, its passengers and crew aboard the Grand Princess, Plaintiffs contracted
18 COVID-19 on Defendant's ship.
19

20 21. Finally, Defendant PRINCESS' corporate office is negligent in failing
21 to adequately warn Plaintiffs about the potential exposure to COVID-19 prior to
22 boarding the ship on February 21, 2020, and again during the sailing of said cruise.
23 Defendant had actual knowledge of at least two passengers who sailed on its ship
24 the week prior, disembarked with symptoms of coronavirus, and one confirmed
25 death as a result. Defendant also knew that there were sixty two passengers and
26 crew who were onboard that same sailing, who now are on board with Plaintiffs,
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

and failed to inform Plaintiffs **at any time prior to boarding or while they were already onboard**, that there is an actual risk of exposure to COVID-19. In addition, PRINCESS failed to inform Plaintiffs that a crew member aboard their cruise actually disembarked in Hawaii as a result of coronavirus.

22. If Plaintiffs had knowledge of this actual risk of exposure prior to boarding, they would have never boarded the ship. If they were informed of the risk on February 25, 2020, when the former passengers were notified by email, Plaintiffs would have disembarked at the first port of call in Honolulu on Feb 26, 2020. Due to Defendant’s outright negligence in failing to warn Plaintiffs of the actual risk of exposure to COVID-19 aboard its infected ship, Plaintiffs were quarantined in their cabin along with the rest of the passengers and crew, off the coast of San Francisco, anxiously awaiting their fate, until they were transferred to various air force bases, where they remained quarantined and ultimately became ill with COVID-19.

1 24. Defendant Princess' corporate office's conduct in deciding to continue
2 to sail the Grand Princess with Plaintiffs, knowing that the ship was infected from
3 two previous passengers who came down with symptoms of COVID-19, and had
4 sixty two passengers on board with plaintiffs who were previously exposed to those
5 two infected individuals, along with the prior crew, shows wanton and reckless
6 conduct on the part of Defendant, amounting to gross negligence. Defendant knew
7 how dangerous it was to expose Plaintiffs and the rest of its passengers to COVID-
8 19 in light of its experience with the Diamond Princess a short three weeks prior,
9 and yet it departed from what a reasonably careful cruise line would do under the
10 circumstances in continuing to sail with Plaintiffs.
11

12 25. Moreover, Defendant's corporate office's conduct in failing to warn
13 Plaintiffs of their actual risk of being exposed to COVID-19, either prior to
14 boarding or while they were already on board, in light of the prior passenger who
15 came down with symptoms who ended up dying, along with others who came down
16 with symptoms from that prior voyage, and the crew member who disembarked
17 during this voyage from the virus, amounts to reckless and wanton conduct and an
18 extreme departure of a what a reasonably careful cruise line would do.
19

20 26. Defendant PRINCESS' corporate office chose to place profits over the
21 safety of its passengers, crew and the general public in continuing to operate
22 business as usual, despite their knowledge of the actual risk of COVID-19 to
23 Plaintiffs.
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

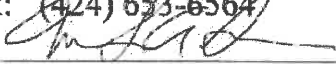
27. As a result of Defendant's gross negligence as outlined above, Plaintiffs have contracted COVID-19 on said ship, suffered physical injury as a result of said diseases as well as emotional trauma from contracting said disease, and the emotional stress and trauma will continue to plague them into the future.

WHEREFORE, Plaintiffs demand judgment against PRINCESS including punitive damages suffered as a result of the alleged gross negligence on Defendant, and a trial by jury on all issues triable.

DEMAND FOR JURY TRIAL

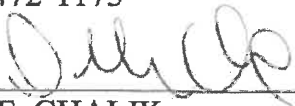
The Plaintiffs hereby demand trial by jury of all issues so triable of right.

DATED this 23 day of June 2020.

Michael A. Simmrin
SIMMRIN LAW GROUP
3500 W. Olive Avenue, Suite 300
Burbank, CA 91505
Tel.: (954) 476-1000
Fax: ~~(424) 653-6564~~
By 

MICHAEL A. SIMMRIN
California Bar No.238092

Debi F. Chalik (Pro Hac Vice Pending)
CHALIK AND CHALIK, P.A.
Attorneys for Plaintiff
10063 N. W. 1st Court
Plantation, Florida 33324
Tel.: (954) 476-1000
Fax: (954) 472-1173

By 
DEBI F. CHALIK
Florida Bar No. 179566

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES

JACK DENIS and DONNA
DENIS

No. 2:20-cv-8110

Plaintiffs,

v.

PRINCESS CRUISE LINES LTD.,
Defendant.

COMPLAINT AND JURY DEMAND

Plaintiffs, by and through their undersigned counsel, hereby sues Defendant, PRINCESS CRUISE LINES LTD. (hereinafter, "PRINCESS"), and alleges:

THE PARTIES AND JURISDICTION

1. This is an action seeking damages in excess of \$1,000,000.00 (One Million Dollars) exclusive of interest, costs and attorney's fees.

2. This Court has diversity subject matter jurisdiction pursuant to 28 U.S.C. § 1332 as this is a civil action in which the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States and/or citizens of a State and citizens or subjects of a foreign state.

1 3. This Court also has Admiralty subject matter jurisdiction pursuant to
2 28 U.S.C. § 1333 as this case involves a maritime tort. The type of incident and
3 injuries suffered by Plaintiffs had the potential to impact maritime commerce as
4 Plaintiffs are at serious risk of imminent harm as a result of being exposed to the
5 Coronavirus running rampant aboard the cruise ship upon which they are paying
6 passengers.
7

8
9 4. Plaintiff, JACK DENIS is sui juris, is a resident of Honolulu County,
10 Hawaii, and was a passenger onboard the Ruby Princess.
11

12 5. Plaintiff, DONNA DENIS is sui juris, is a resident of Honolulu
13 County, Hawaii, and was a passenger onboard the Ruby Princess.
14

15 6. Princess Cruise Lines LTD. is incorporated in Bermuda, with its
16 headquarters in Santa Clarita California. The action is being filed in this Court
17 pursuant to the terms and conditions of the Passenger Contract issued by
18 Defendant, Princess Cruise Lines Ltd.
19

20 7. At all times hereto, PRINCESS owned and operated the cruise ship the
21 Ruby Princess.
22

23 8. This Court has personal jurisdiction over PRINCESS as PRINCESS'
24 principle place of business is located in Los Angeles County, Los Angeles.
25

26 9. Plaintiffs, JACK DENIS and DONNA DENIS, were passengers
27 aboard the Ruby Princess which departed out of Sydney, Australia on March 8,
28

1 2020 and had to return 3 days early on March 19, 2020, as a result of an outbreak of
2 COVID-19.

3
4 10. Plaintiff, JACK DENIS came down with symptoms of the virus on
5 March 19, 2020, and tested positive on March 26, 2020.

6
7 11. Plaintiff, DONNA DENIS came down with symptoms of the virus on
8 March 19, 2020, and tested positive on March 26, 2020.

9
10 **FACTUAL BACKGROUND**

11 In the recent months, there has been a worldwide outbreak of a new strain of
12 the Corona virus, commonly known as COVID-19. The virus began in China in
13 December 2019, and has quickly spread throughout Asia, Europe and most
14 recently, North America. The virus causes temperature, a dry cough, and can be
15 fatal. There have been over One Hundred Thousand cases worldwide and over
16 Three Thousand deaths as result of COVID-19. Those fatalities have largely been
17 amongst the elderly population, and those with underlying medical complications.
18

19
20 COVID-19 really gained the attention of the public when the Diamond
21 Princess cruise ship, also owned and operated by Defendant, suffered an outbreak
22 of the disease at the beginning of February 2020 in Yokohama, Japan. The
23 outbreak began with ten cases, and rapidly multiplied to seven hundred cases, as a
24 result of the flawed two week quarantine on the ship. The Center for Disease
25 Control, (CDC) issued a statement on February 18, 2020, that “the rate of new
26 reports of positives new on board, (Diamond Princess), especially among those
27
28

1 without symptoms, highlights the high burden of infection on the ship and potential
2 for ongoing risk.” Seven of Defendant’s passengers died as a result of COVID-19.
3

4 Subsequently, Princess Cruises suffered two additional outbreaks on the
5 Grand Princess sailings of February 11, 2020 and February 21, 2020 out of San
6 Francisco, resulting in more than four deaths and hundreds of infections to its
7 passengers and crew members. Despite having experienced three major outbreaks
8 on its ships, Princess Cruises kept sailing out of various ports of call around the
9 world, including the Ruby Princess ship which sailed out of Sydney, Australia on
10 March 8, 2020.
11
12

13 Princess Cruises decided to sail on March 8, 2020, despite their knowledge of
14 the significant risk of harm to their passengers and crew members, in light of their
15 three prior voyages on other ships that resulted in outbreaks of the disease in
16 catastrophic proportions. More importantly, Princess Cruises experienced an
17 outbreak of COVID-19 on the Ruby Princess on the sailing just prior to the March
18 8, 2020 voyage, and yet they recklessly decided to board another three thousand
19 passengers on March 8, 2020, and put their lives at risk, which is why Plaintiffs
20 contracted the highly communicable disease COVID-19.
21
22
23

24 **COUNT I**

25 **(NEGLIGENCE AGAINST PRINCESS)**

26 Plaintiffs re-allege all allegations in paragraphs 1 through 11 above as if alleged
27 fully herein.
28

1 12. PRINCESS owed Plaintiffs, who are paying passengers who boarded
2 the Ruby Princess on March 8, 2020, the duty to ensure that they would not be
3 exposed to unreasonable risk of harm that defendant knew or should have known
4 about while sailing on its vessel.
5

6 13. Defendant breached its duty in that it suffered a COVID-19 outbreak
7 on the voyage just prior to the March 8, 2020 sailing, and yet it made the conscious
8 decision to continue sailing the voyage that began on March 8, 2020, with another
9 three thousand passengers on an infected ship.
10

11 14. Specifically, Defendant was aware of the outbreak, and went as far as
12 to provide vouchers to the passengers to buy lunch, while they delayed the sailing
13 for six hours so that they could further disinfect the ship prior to sailing.
14

15 15. In continuing to sail with another three thousand passengers including
16 Plaintiffs on March 8, 2020, knowing that the ship and crew had already been
17 exposed to COVID-19, the Defendant PRINCESS, knowingly exposed Plaintiffs to
18 the deadly disease which they ended up contracting on said ship.
19

20 16. Defendant is further negligent in failing to have proper screening
21 protocols for COVID-19 prior to boarding the passengers on Plaintiffs' voyage,
22 despite their experience of outbreaks on multiple ships prior to the March 8, 2020
23 sailing, including the outbreak on the subject ship just one week prior.
24

25 17. To add insult to injury, the Defendant PRINCESS was aware of an
26 outbreak of COVID-19 on the March 8, 2020 sailing, and failed to even attempt to
27
28

1 quarantine any of the passengers onboard. They didn't even bother to notify the
2 passengers that there was an actual outbreak, allowing the sailing to continue as if it
3 were a normal cruise, up until the time it returned to Australia three days early.
4

5
6 18. As a result of the Defendant's lackadaisical approach to the safety of
7 Plaintiffs, its passengers and crew aboard the Ruby Princess, Plaintiff, JACK
8 DENNIS became ill with symptoms of COVID-19 on March 19, 2020, while
9 aboard the ship, and tested positive on March 26, 2020. As a result, Plaintiff, JACK
10 DENNIS, had to be hospitalized on March 30, 2020 and is still in the hospital
11 fighting for his life as of the date of this filing.
12

13
14 19. As a result of the Defendant's lackadaisical approach to the safety of
15 Plaintiffs, its passengers and crew aboard the Ruby Princess, Plaintiff, DONNA
16 DENIS became ill with symptoms of COVID-19 on March 19, 2020 while onboard
17 the ship and tested positive on March 26, 2020.
18

19
20 20. Finally, Defendant PRINCESS is negligent in failing to adequately
21 warn Plaintiffs about the potential exposure to COVID-19 prior to boarding the ship
22 on March 8, 2020, and again during the sailing of said cruise. Defendant had actual
23 knowledge of passengers and crew members with symptoms of coronavirus during
24 the March 8, 2020 sailing and failed to inform Plaintiffs **at any time prior to**
25 **boarding or while they were already onboard**, that they were exposed to
26 COVID-19.
27
28

1 21. If Plaintiffs had knowledge of this actual risk of exposure prior to
2 boarding, they would have never boarded the ship, and they would've boarded the
3 first flight out of Australia and returned home. Due to Defendant's outright
4 negligence in failing to warn Plaintiffs of the actual risk of exposure to COVID-19
5 aboard its infected ship, Plaintiffs JACK DENIS and DONNA DENIS became sick
6 with COVID-19 aboard the ship and tested positive. Plaintiff, JACK DENIS
7 ultimately had to be **rushed to the hospital on March 30, 2020 where he still**
8 **remains today.**



23
24 22. As a direct and proximate result of the aforementioned negligence of
25 the Defendant PRINCESS, in exposing them to actual risk of immediate physical
26 injury, Plaintiffs are suffering from COVID-19, are extremely ill, and are suffering
27 from the emotion trauma of said disease.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

WHEREFORE, Plaintiffs demand judgment against Defendant PRINCESS for damages suffered as result of their negligence and a trial by jury on all issues triable.

COUNT II

(GROSS NEGLIGENCE AGAINST DEFENDANT PRINCESS)

Plaintiff re-alleges all allegations set out in paragraphs 1 through 22 above as if alleged fully herein.

23. Defendant Princess’ conduct in deciding to continue to sail the Ruby Princess with Plaintiffs, knowing that the ship was infected from a prior voyage and prior crew members who came down with symptoms of COVID-19, on board with plaintiffs, shows a lack of any care on the part of Defendant, amounting to gross negligence. Defendant knew how dangerous it was to expose Plaintiffs and the rest of its passengers to COVID-19 in light of its experience with the Diamond Princess and two sailings on the Grand Princess, and yet it departed from what a reasonably careful cruise line would do under the circumstances in continuing to sail with Plaintiffs.

24. Moreover, Defendant’s conduct in failing to warn Plaintiffs of their actual risk of harm in being exposed to COVID-19, either prior to boarding or while they were already onboard, in light of prior passengers and crew members,

1 who came down with symptoms from the prior voyage, amounts to an extreme
2 departure of a what a reasonably careful cruise line would do.

3
4 25. Defendant PRINCESS chose to place profits over the safety of its
5 passengers, crew and the general public in continuing to operate business as usual,
6 despite their knowledge of the actual risk of injury to Plaintiffs, one of which
7 suffers from underlying health conditions.
8

9 26. As a result of Defendant's gross negligence as outlined above,
10 Plaintiffs have contracted COVID-19 on said ship, suffered physical injury as a
11 result of said disease as well as emotional trauma from contracting said disease.
12 The emotional stress and trauma from the virus will continue to plague them into
13 the future.
14

15
16 WHEREFORE, Plaintiffs demand judgment against PRINCESS
17 including punitive damages suffered as a result of the alleged gross negligence on
18 Defendant, and a trial by jury on all issues triable.
19

20 **DEMAND FOR JURY TRIAL**

21 The Plaintiffs hereby demand trial by jury of all issues so triable of right.

22 DATED this 4th day of September, 2020.

23 Michael A. Simmrin
24 SIMMRIN LAW GROUP
25 3500 W. Olive Avenue
26 Suite 300
27 Burbank, CA 91505
28 Tel.: (954) 476-1000
Fax:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

By */S/ Michael A. Simmrin*
MICHAEL A. SIMMRIN
California Bar No. 238092

Debi F. Chalik (Pro Hac Vice Pending)
CHALIK AND CHALIK, P.A.
Attorneys for Plaintiff
10063 N. W. 1st Court
Plantation, Florida 33324
Tel.: (954) 476-1000
Fax: (954) 472-1173

By */S/ Debi F. Chalik*
DEBI F. CHALIK
Florida Bar No. 179566

ABA Membership Includes Free Online and On-Demand CLE.

Meet Your State Requirements,
Including Specialty Credits!

ABA™

Home / In-Depth Reporting / Suing a cruise line? There are a boatload...

COVER STORY

Suing a cruise line? There are a boatload of challenges unique to the industry

BY JENNY B. DAVIS ([HTTPS://WWW.ABAJOURNAL.COM/AUTHORS/64783/](https://www.abajournal.com/authors/64783/))

JUNE 1, 2020, 12:00 AM CDT (/MAGAZINE/ISSUE/2020/06/)

Like 123

Share

Tweet



Share



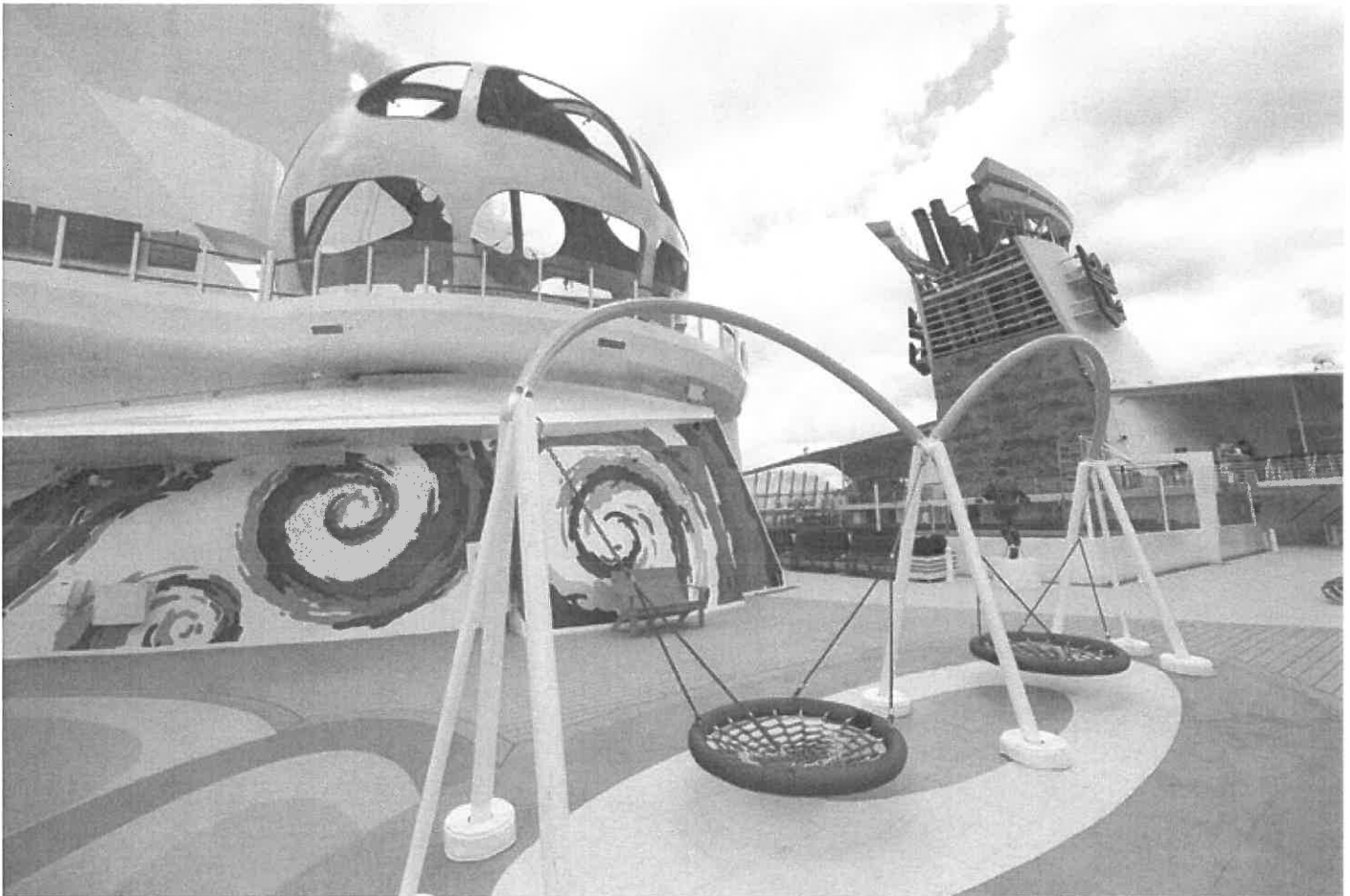
Photo illustration by Elmarie Jara/Getty Images

Nestled between a colorful tangle of waterslide tubes and a wave-generating surfing simulator, the enormous yellow orb of the Sky Pad rose from the deck of Royal Caribbean's *Mariner of the Seas* cruise ship like a “go” button waiting to be pressed.

The Sky Pad combined trampoline bouncing with bungee jumping, allowing those who entered its cavernous circular structure to defy gravity with every bounce. Optional virtual reality headsets let guests smash and speed through simulated candy landscapes and futuristic city streets while they jumped. The Sky Pad was just one of many high-octane attractions Royal Caribbean added to its 3,800-plus passenger *Mariner of the Seas* ocean liner during its \$120 million makeover in 2018.

Casey Holladay remembers seeing a Royal Caribbean TV commercial promoting the new Sky Pad ride. An avid outdoorsman and sports enthusiast, Holladay, then age 25, recalled to an NBC 6 Miami news team that seeing the commercial made him excited to try this “awesome experience in the sky” during an upcoming Royal Caribbean cruise to the Bahamas with his girlfriend. And that’s exactly what he set out to do after they boarded the *Mariner of the Seas* in February 2019.

Holladay’s Sky Pad experience started off just as awesome as he had imagined. With his girlfriend recording him on her phone from the deck, Holladay bounced, twisted and soared against a background of clear blue sky. Suddenly, however, the unthinkable happened: The bungee cords holding Holladay snapped and spiraled away from him, sending him into a 20-foot free fall to the deck below.



An accident last year on the Sky Pad attraction on the Mariner of the Seas cruise ship (above) prompted a \$10 million personal injury lawsuit against Royal Caribbean. Photo by MyLoupe/Universal Images Group via Getty Images; Jim Rassol/Sun Sentinel/Tribune News Service; Nora Tam/South China Morning Post via Getty Images

“I just felt the momentum release from my body that I wasn’t being held by anything anymore,” he told the news reporter. “All I really remember was the hit, and the noise, and then the fear.”

The fall caused Holladay to shatter his pelvis, and he sustained other injuries. He was hospitalized for nine days, had surgery and sustained permanent injuries that will require follow-up care for years, says his lawyer, Miami's Brett Rivkind of Rivkind Margulies & Rivkind.

Holladay is suing Royal Caribbean for \$10 million. Royal Caribbean did not return an email for comment, but in its answer to the lawsuit, the company denied liability and has requested a jury trial.

Holladay isn't the only cruise ship passenger to have a dream vacation turn into a nightmare. In 2019 alone, heart-wrenching news reports involving cruise ships included the death of a toddler who fell out of an open ship window to the concrete dock below during a family cruise to Puerto Rico; an alcohol-fueled brawl on a cruise of Norwegian fjords that caused multiple injuries; the alleged rape of a 17-year-old British girl during a Mediterranean cruise; and the death of an Australian man who went overboard during a Caribbean cruise with his family.

But tragedies don't just happen on board. Cruise ship passengers can be injured, attacked or killed on land, too, during shore excursions sold by the cruise lines that take place while the cruise ship is docked in a port.



Photo by Jeffrey Greenberg/Education Images/Universal Images Group via Getty Images

Excursions can range from exclusive parties and island bus tours to extreme adventures such as parasailing, hang gliding and bungee jumping. Cruise ships have been sued in connection with a party held at a local bar that left a cruise ship passenger a tetraplegic, a deadly crash involving a tour bus filled with cruise ship passengers, and a fatal midair zip line collision between a husband and wife on their honeymoon cruise.

But when a cruise ship departs from a U.S. port, federal maritime law generally applies. Under maritime law, tort liability for injuries, illnesses and death is anchored by basic principles of negligence law requiring a duty to protect against a particular harm, a breach of that duty, proximate cause between the breach and the harm, and actual harm. But that's where plaintiffs lawyers say the basic legal theories end and the complications begin.

Bringing a case against an ocean cruise line is challenging. Together, the industry's big three—Carnival Corp., Royal Caribbean Cruises and Norwegian Cruise Line Holdings— carried nearly 80% of all ocean cruise passengers, according to a 2018 report. Plaintiffs lawyers say these cases are highly specific and highly specialized, governed by myriad legal standards and subject to investigative challenges. It's an area so unique, they say, that it's easy for a novice lawyer to make an honest mistake that can permanently sink an otherwise meritorious case.

"There are different standards of proof, shorter statutes of limitations and more opportunities to get yourself in trouble," says Deborah J. Gander, a partner at Colson Hicks Eidson in Coral Gables, Florida.

Tonya J. Meister of Meister Law Firm in Miami agrees. "If you don't know what you're doing," warns Meister, who is board-certified by the Florida Bar in maritime law, "you're going to harm your client and make bad law."

Carnival, Royal Caribbean, Norwegian and Princess Cruises (acquired in 2003 by Carnival) did not respond to repeated requests for comment on this story.

Laws and limitations

The cruise industry is international. Ships are registered under flags of foreign countries and operated by companies incorporated in other foreign countries. Passengers and crew hail from points around the world and travel together to all points in between. So how do plaintiffs lawyers know where to file a lawsuit involving a cruise ship departing from an American port? It's actually pretty simple: They look at the passenger's cruise ticket.

All ocean cruise passenger tickets contain pages of fine print making up an extensive contract limiting the cruise line's liability for everything from lost luggage to class action lawsuits. Included in this extensive laundry list of restrictions and responsibilities is a forum selection clause requiring all civil suits against the cruise line to be brought in a particular court. Booking the cruise and paying for the ticket is considered the passenger's consent to the terms of the contract.

Tickets issued by Carnival, Royal Caribbean and Norwegian require passengers to file any civil case in the Southern District of Florida, a venue that encompasses Miami-Dade County. The reason, Gander says, is obvious: "While the major cruise lines are incorporated outside of the country, every executive of every major cruise line is headquartered in Miami, so it's really a home-field advantage for these corporations."



Deborah J. Gander: "There are different standards of proof, shorter statutes of limitations and more opportunities to get yourself in trouble." Courtesy of Colson Hicks Eidson

It may seem unfair to require plaintiffs to bring their lawsuits in a forum chosen by the defendant, especially when the forum choice was clearly made for the convenience of a defendant corporation rather than the convenience of an aggrieved person, who most likely lives far away. Nevertheless, the U.S. Supreme Court has upheld cruise line forum selection clauses, most recently in the 1991 case *Carnival Cruise Lines Inc. v. Shute*. In that case, the high court ruled that the choice of Florida as a forum is not fundamentally unfair, and that the chosen Florida forum would neither deter passengers from pursuing a legitimate claim nor deprive them of access to a competent court.

The cruise passenger ticket also imposes its own statute of limitations on passenger claims. Maritime law generally provides a three-year statute of limitations for tort actions. When the tort involves a cruise ship, however, the passenger ticket terminology typically reduces the statute of limitations to just one year, with a notice requirement set at six months. As with the forum selection clause, courts have consistently upheld the validity of such restrictions where they are clearly stated and passengers have had the opportunity to read them, regardless of whether they have actually done so.

Plaintiffs lawyers say the law doesn't make their job easy. Michael Winkleman of Miami's Lipcon, Margulies, Alsina & Winkleman says the requirement to file within one year can complicate damages calculations such as determining the total amount of medical bills or assessing the extent of lasting injury. "Sometimes, we just have to file the case while the plaintiff is still undergoing medical treatment or recovering," he says.

Meister says she's even seen instances where the shortened statute of limitations has precluded cases entirely. The most common scenario is a passenger who's injured on a cruise ship and decides to consult a local personal injury lawyer back home who doesn't know about the shortened filing window. "I get a lot of phone calls from unfortunate souls who thought they had a regular injury claim and didn't know they needed to give written notice within six months and file a suit in federal court within a year," she says. "There's nothing I can do to help them—they've blown it."

Building a case

When bringing a cruise ship personal injury case, lawyers say it's not just the law that's different, it's the investigative approach, too.

"When you have a car accident or a fall in a supermarket, you can easily just go down and investigate the scene," Winkleman says. "But I can't just go walk onto a cruise ship: I have to get clearance to have access, and generally that doesn't happen unless I have already filed the lawsuit."

Although Winkleman is based in Miami, it doesn't necessarily mean the cruise ships he wants to inspect are there, too. Which means he must go wherever the ship is currently docked to be able to conduct his onboard investigation.

Interviewing witnesses poses additional challenges, especially if the witnesses also happen to be crew members, Winkleman says. "The dynamic is, you have a lot of crew members from Third World countries where they would be making \$1 a day, but on a cruise ship, they make \$100 a day, so they

are going to say whatever they have to in order to keep their jobs. Even the security guards have an interest in protecting the company—it's an immediate adversarial relationship.”

But the challenges don't disappear even when crew members cooperate, Rivkind says. Scheduling depositions of cruise ship employees can be especially challenging, he says, “because they're on cruise ships that are moving from port to port.”

While the hurdles are many, Ira H. Leesfield, a partner at Miami's Leesfield Scolero, points out one significant advantage when it comes to proving a case: cameras. “There are surveillance cameras everywhere on cruise ships,” he says. “A lot of times, we get the judge to force the surveillance, and we'll have the incident right there on tape.”

There's also digital data that can help a lawyer make a case, says Miami solo Robert L. Gardana, who has chaired the Florida Bar's Admiralty Law Committee and served as chair of the admiralty law committee of the ABA's Tort and Trial Lawyer Insurance Practice Section. Data from a ship's GPS and automatic identification system—a maritime tracking system that shows the location of nearby vessels—can be critical, he says.

But Gardana stresses the importance of old-school document sleuthing, too, via the Freedom of Information Act request. Topping his must-request list: the FD-302 form used by FBI agents to summarize and make notes on interviews they conduct. “Often, the FD-302 form can help piece the puzzle together,” he says.

Investigating cases of sexual assault on cruise ships also has gotten easier thanks to the passage of the Cruise Vessel Security and Safety Act of 2010. The act established standards for crime scene preservation and required medical exams for victims that include evaluating the patient for trauma and preserving medical evidence. It also created an online database of cruise ship incident reports to make crime statistics accessible to the general public. Prior to 2010, foreign-flagged cruise lines were not required to report sexual or physical assaults to any U.S. government agency.

The importance of such statistics was recently reinforced in *K.T. v. Royal Caribbean Cruises Ltd.* In this case, a minor female alleged she was gang raped in 2015 by a group of men who plied her with alcohol served by ship bartenders. She became “obviously drunk, disoriented” and “unstable” in full



Michael Winkleman: “Sometimes, we just have to file the case while the plaintiff is still undergoing medical treatment or recovering.” Photo courtesy of Lipcon, Margulies, Alsina & Winkleman



Photo courtesy of Robert L. Gardana

view of crew members and those monitoring security cameras. The July 2019 opinion by the Atlanta-based 11th U.S. Circuit Court of Appeals, written by Chief Judge Ed Carnes for a three-judge panel, reversed the lower court's dismissal of the case for failure to state a claim for negligence in failing to warn cruise ship passengers of the danger of sexual assault and failing to take action to prevent the assault.

But Carnes didn't stop there. He also wrote a special concurrence to his own opinion where he took judicial notice of the Department of Transportation cruise line incident reports compiled pursuant to the Cruise Vessel Safety and Security Act of 2010 that included incidents that occurred on past Royal Caribbean cruises. "It would be absurd to suggest that a multibillion-dollar business like Royal Caribbean was not aware of congressional reports about the problem of sexual assault aboard its cruise ships," he wrote.

Winkleman, who represents K.T., believes the opinion "provides a critical clarification of the law that cruise ships do have a duty to warn passengers of the risk of rape."

Royal Caribbean did not respond to a request for comment on the case.

Restrictions on recovery

When it comes to damages for deaths, plaintiffs lawyers are united in their frustration with the Death on the High Seas Act, an admiralty law that governs the who, the how and the how much when a death occurs during a cruise beyond U.S. territorial waters.

Signed into law by President Woodrow Wilson in 1920, DOHSA was originally intended to benefit widows and dependents of seamen who died while working on ships in international waters as a result of negligence, a wrongful act or unseaworthiness.

DOHSA applies to transportation passenger deaths that occur 3 or more nautical miles from the shore of the United States or in a foreign country. For cruise ship passengers, it is the exclusive applicable law, preempting both state law and maritime common law.

But DOHSA significantly restricts the amount and type of recovery that a decedent's family can receive, no matter the amount of pain or suffering or the level of negligence or egregious conduct that caused the death. DOHSA only allows a family to recover pecuniary losses like funeral expenses, medical expenses and loss of inheritance.

Nonpecuniary losses such as the loss of care, comfort and companionship are specifically prohibited. That means there is no opportunity to recover for emotional distress, mental anguish, grief or the loss of consortium. DOHSA also prohibits any compensation for pain and suffering the decedent experienced before dying.

"One would think a death case would be a high-value case, but if it's a death on the high seas, the claim can be worth peanuts," Meister says.

But DOHSA is even more restrictive in its application to pecuniary recovery, Meister explains, because it calls for a different calculation for the value of life than is common in death cases on land and in territorial waters. Instead of simply calculating the loss of earnings, DOHSA calculations are based on the loss of net accumulation.

“It’s not what the total of what you were expected to earn over your estimated lifespan; it’s what you would have had left after you spent down your earnings,” she says.

If the passenger who dies is an older retired person who does not happen to be financially supporting anyone, Winkleman says that recovery could very well be limited to just funeral expenses.

Meister points out that it is possible to recover for emotional distress under DOHSA if the decedent’s spouse, child or parent was in the “zone of danger” when the death occurred. Merely witnessing a loved one die is not enough, she says, even if the situation is horrific, such as in the case of a medical emergency or an accident during an excursion. Rather, the claimant must be imperiled by the same danger or the same situation that causes the death of the loved one. “If you don’t have that, you don’t have a case,” she says.

In 2000, Congress acknowledged that DOHSA’s pre-World War II-era compensation model was outdated and amended it to allow for nonpecuniary recovery and to extend the jurisdiction from 3 to 12 miles off the country’s shore. Unfortunately for cruise ship passengers, however, the amendment applies only to commercial aviation passengers—a direct result, many plaintiffs say, of cruise industry influence.

“Any time there’s an effort to provide any fix, the pocketbook opens up,” Winkleman says. “They spend millions trying to keep DOHSA on the books, which, in my opinion, is money very well spent.”

In April 2019, U.S. Sen. Deb Fischer (R-Neb.) introduced a bill called Hammer’s Law to extend DOHSA’s updated provisions to cruise ship passengers.

The name is in honor of Christy and Larry Hammer, who died in a fire that broke out in their cabin during a riverboat cruise in Peru. A subsequent report from the Peruvian navy found multiple incidents of negligence by the cruise company, according to the senator’s press release.

The bill has a long road to becoming law, but precedent does not bode well for its success. The proposed Cruise Passenger Protection Act of 2017, which would have provided similar relief by requiring a uniform application of DOHSA, died in subcommittee at the close of 2018.



Tonya J. Meister: “One would think a death case would be a high-value case, but if it’s a death on the high seas, the claim can be worth peanuts.”

Photo by Eileen Escarda

“Do I think it’s likely that it will be amended? I’m not holding my breath waiting,” Davies says. “The cruise lines are a powerful lobbying group against change, and the lobby group for change—the families of deceased passengers—is less organized and less powerful.”

As a result of DOHSA’s rigid restrictions, plaintiffs lawyers say they’ve been forced to turn away meritorious cases because the recovery wouldn’t be enough to justify the time and resources necessary to bring a claim.

“The genesis of this law was to promote American maritime commerce, not to give a ‘get out of jail card’ to the cruise lines,” Winkleman says. “This law is a nightmare, and it shouldn’t be on the books anymore.”

Despite the restrictions, plaintiffs lawyers say they’re willing to rise to the challenge on behalf of their clients, and that’s what makes it worth it.

“The cruise lines fight very hard, they have very smart lawyers both in-house and as outside counsel, and they don’t pay money to get rid of cases,” Meister says. “We try a lot of cases, and we settle a lot of cases; it just depends on the circumstances. In my experience, most cases settle, but I am always 100% ready for trial.”

See also: Coronavirus on board: Lawyer’s parents were trapped on a contaminated cruise ship (<https://www.abajournal.com/magazine/article/coronavirus-on-board-lawyer-shares-experience-cruise-ship>)

This article appeared in the June/July 2020 issue of the ABA Journal under the headline: “Rough Seas: Plaintiffs attorneys suing cruise lines must navigate a boatload of challenges unique to the industry.”

Correction

In print and initial online versions of "Rough Seas," June-July, Robert L. Gardana should have been identified as a past chair of the Admiralty and Maritime Law Committee of the ABA's Tort and Trial Lawyer Insurance Practice Section.

The Journal regrets the error.

Jenny B. Davis, a former practicing lawyer, is a freelance writer based in Fort Worth, Texas.

Give us feedback, share a story tip or update, or report an error.



Copyright 2021 American Bar Association. All rights reserved.



Home / Daily News / What types of lawsuits were filed over COVID-19...

PUBLIC HEALTH

What types of lawsuits were filed over COVID-19 in 2020?

BY AMANDA ROBERT ([HTTPS://WWW.ABAJOURNAL.COM/AUTHORS/64780/](https://www.abajournal.com/authors/64780/))

JANUARY 4, 2021, 1:15 PM CST

Like 32 Share Tweet Share

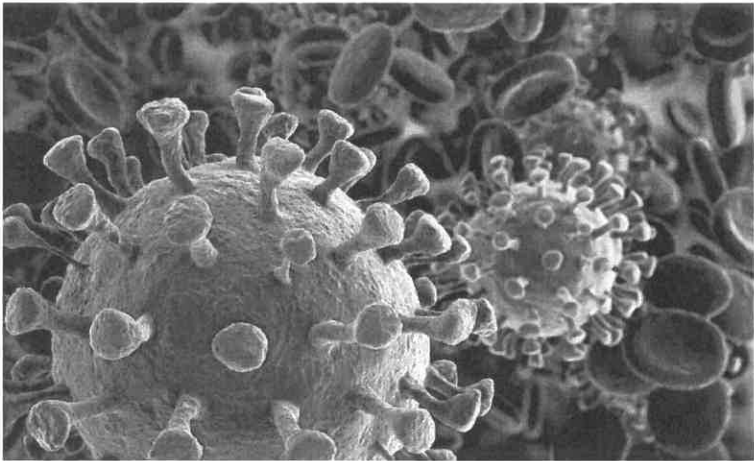


Image from Shutterstock.com.

March.

Despite predictions made in the early months of the coronavirus pandemic, lawsuits alleging that COVID-19 caused physical or economic harm were limited in 2020.

In its review of last year's lawsuits, Law.com (<https://www.law.com/2020/12/29/lawsuits-filed-in-2020-over-covid-19-were-diverse-but-limited/>) also reported that new case filings related to the coronavirus decreased in August and declined even more to 588 in November. According to Lex Machina's COVID-19 Impact Analyzer, this was among the lowest levels since the pandemic began in

Lex Machina released its first Torts Litigation Report (https://www.prnewswire.com/news-releases/lex-machina-releases-2020-torts-litigation-report-301177161.html?tc=eml_cleartime) in November, identifying 173 tort cases related to COVID-19. Most were filed against cruise lines and nursing homes, and as Law.com reports, judges have dismissed many of them.

Mark Chalos, a partner at Lief Cabraser Heimann & Bernstein in Nashville, Tennessee, told Law.com that “those cases just haven’t materialized by and large.”

He also said “we’re not seeing really any cases of any significance in more transient environments, like stores or restaurants or bars or other local businesses.”

Lawyers also expected a surge in employment class actions because of COVID-19, but according to Jackson Lewis’ COVID-19 Employment LitWatch (<https://www.jacksonlewis.com/covid19-litwatch>), wage-and-hour cases comprised 78 of the 1,245 employment matters related to the coronavirus.

Further citing Jackson Lewis’ findings, Law.com reports that 472 lawsuits related to disability, leave and accommodation claims brought by employees who were sick or caring for someone with COVID-19.

Stephanie Adler-Paindiris, a principal in the Orlando, Florida, office of Jackson Lewis, told Law.com that she expects an increase in class actions related to systemic discrimination in 2021 as companies ask employees to return to the office and get the COVID-19 vaccine.

The largest group of lawsuits related to COVID-19 in 2020 were filed by restaurants, bars and businesses against their insurance firms after state and local governments ordered them to shut down, Law.com reports. Of the more than 6,900 lawsuits related to the pandemic in 2020, nearly 1,400 were over insurance, according to Hunton Andrews Kurth’s COVID-19 Complaint Tracker (<https://www.huntonak.com/en/covid-19-tracker.html>).

Chalos told Law.com that he expects more of these cases in 2021.

See also:

ABA Journal (<https://www.abajournal.com/magazine/article/plaintiffs-attorneys-suing-cruise-lines-must-navigate-a-boatload-of-challenges-unique-to-the-industry>): “Suing a cruise line? There are a boatload of challenges unique to the industry”

ABAJournal.com (<https://www.abajournal.com/web/article/flood-of-age-discrimination-suits-expected-with-pandemic-economic-downturn>): “A flood of age discrimination lawsuits is expected from COVID-19 and the economic downturn”

ABA Journal (<https://www.abajournal.com/magazine/article/coronavirus-related-deaths-in-nursing-homes-lead-lawsuits-and-questions-about-whos-responsible>): “Coronavirus-related deaths in nursing homes prompt lawsuits and questions about who’s responsible”

Give us feedback, share a story tip or update, or report an error.



Copyright 2021 American Bar Association. All rights reserved.

ABA Membership Includes Free Online and On-Demand CLE.

Meet Your State Requirements,
Including Specialty Credits!



Home / Web First / A flood of age discrimination lawsuits is...

LABOR & EMPLOYMENT

A flood of age discrimination lawsuits is expected from COVID-19 and the economic downturn

BY HARRIS MEYER

SEPTEMBER 1, 2020, 1:12 PM CDT

Like 198

Share

Tweet



Share



Image from Shutterstock.com.

The novel coronavirus pandemic has raised unprecedented legal questions for U.S. employers and employees who are older than 40 or who have a medical disability.

Labor and employment attorneys around the country say they are receiving a flood of complaints and questions about layoffs, firings and recalls to the workplace that involve potential discrimination against older and disabled workers. Many cases involve an overlap of age and disability bias claims.

Both plaintiff and defense lawyers predict a large volume of federal and state lawsuits will emerge from the pandemic. They will be based on the federal Age Discrimination in Employment Act of 1967, which bars discrimination against workers age 40 and older; the Americans with Disabilities Act; the Families First Coronavirus Response Act, which mandated paid sick leave and family leave; the Fair Labor Standards Act; and state and local laws protecting older workers and those with disabilities.

The number of suits will grow over the next six to 12 months as more people discover they aren't being called back to work, employers don't offer them the accommodations they seek and administrative filing periods end, experts say.



Driven by the growing litigation risk, the U.S. Chamber of Commerce and other business groups have pressed Congress and state governments to enact broad restrictions on lawsuits against employers arising from the pandemic. Senate Majority Leader Mitch McConnell, R-Ky., wants liability protections included in any new economic relief package, but Democrats are strongly opposed.

So far, less than 10 age or disability discrimination lawsuits related to the pandemic have been filed in court, according to a COVID-19 case tracker compiled by the Hunton Andrews Kurth law firm. But many cases are being investigated and filed as charges or complaints on a pre-lawsuit basis with the Equal Employment Opportunity Commission and state civil rights agencies, attorneys say.

While age discrimination in U.S. employment and hiring has long been pervasive, the pandemic has raised the stakes for both employers and employees. Companies are drastically cutting costs to survive the worst financial crisis in a century, while older and disabled workers face the prospect of permanent unemployment and financial hardship in their retirement years.

A new working paper published by the National Bureau of Economic Research found that the unemployment rate for Americans 65 and older rose about 2.5 times more in April 2020 than it did at the peak of the Great Recession. Co-author Patrick Button, an assistant professor of economics at Tulane University, attributes that at least partly to greater age discrimination by employers during the pandemic.

"I expect more employers may think older workers are a liability," Button says. "They'll say on average these workers are more susceptible, and as a group, they'll prefer younger workers."

Citing their experience from the Great Recession, plaintiffs attorneys agree, warning that employers will use the current economic downturn as cover to push out workers in their 50s, 60s and 70s who often receive higher pay. And when rehiring begins, they anticipate older workers will be unlawfully passed over. There are more than 10 million Americans 65 and older still in the workforce, according to federal statistics.

"I expect a big uptick in both individual and class-action age discrimination cases because older employees are going to have a much harder time finding another job, assuming the job market remains very difficult in the coming months and years," says Eric Bachman, chair of the discrimination practice at Zuckerman Law in Chevy Chase, Maryland who represents plaintiffs. "So the financial damages are very large because they may never find another job."

Defense attorneys say most employers value their older workers and want to protect them. But they agree that many age-bias claims are likely to emerge.

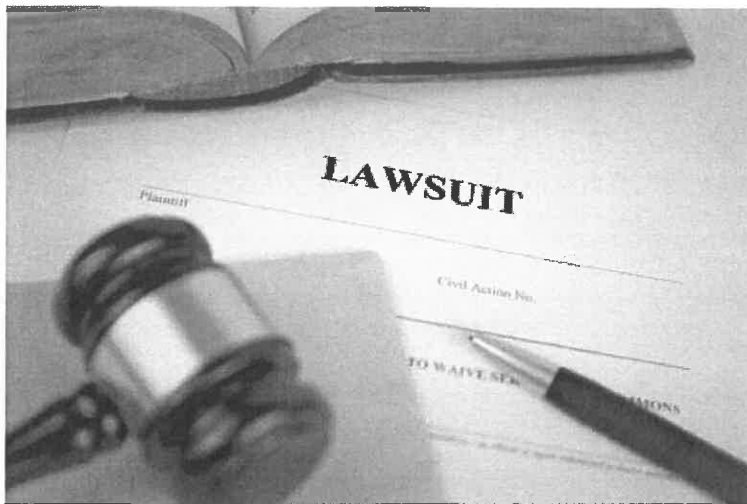
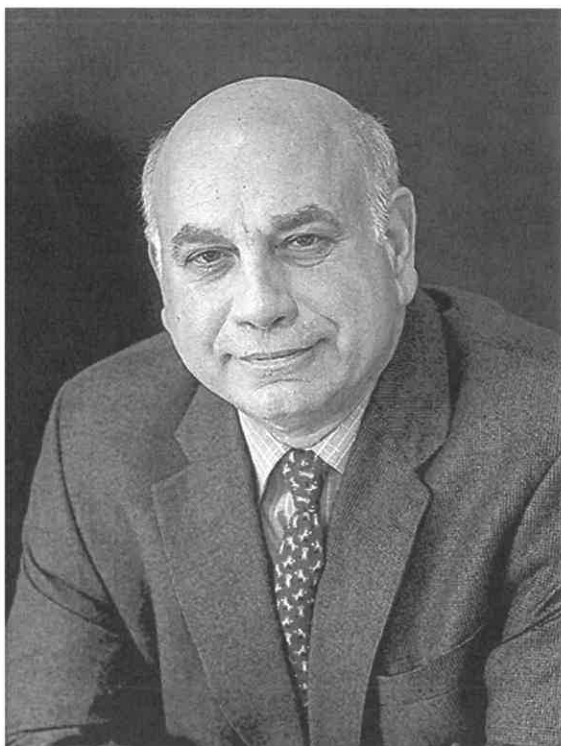


Image from Shutterstock.com.



Louis DiLorenzo, head of the labor and employment practice for Bond Schoeneck & King in New York City.

"When the dust settles and we see the full complement of people not coming back, then lawsuits will be brought and there will be analyses of their ages, sex, disabilities and race," says Louis DiLorenzo, head of the labor and employment practice for Bond Schoeneck & King in New York City who represents employers. "We haven't seen as many lawsuits yet as we are likely to see."

Employers may be tempted to use the economic crisis to cull out older workers they consider poor performers, but whose performance they have not adequately documented. "If there aren't any bad performance evaluations in the person's record, an older worker likely will have a prima facie case and we have to prove age wasn't the cause," DiLorenzo says.

In one case, Mark Kanyuk, a 62-year-old tech facilities manager at Shearman & Sterling, a big New York City law firm, filed a federal age discrimination suit after the firm

abruptly fired him in April, accusing him of unethical conduct.

His complaint alleges the firm axed him to cut costs due to the pandemic and the related economic recession, while giving younger employees the options of voluntary leave or reduced hours. He says he had consistently earned strong performance evaluations, raises and promotions. A Shearman & Sterling spokeswoman denied the allegations.

Employer cost justifications

There are no published EEOC statistics on charges filed with the agency since the pandemic began, and an agency spokesman says the agency has no anecdotal evidence of any trend.

Older workers historically have faced greater age discrimination in firings, layoffs, and hiring during economic downturns, with EEOC data showing a spike in age discrimination claims during and after the Great Recession of 2007-2009. There were 15,573 charges filed with the agency last year, down from the Great Recession peak of 24,582 in 2008.

Experts expect the toll of the current recession will be even heavier, given the much bigger total job losses—more than 45 million Americans have filed for unemployment since the pandemic began, according to the U.S. Department of Labor—and widespread concerns about older employees facing greater health risks from COVID-19.

“My clients are being told they’re laid off because of COVID and are asking why the kid they trained for two years still has a job,” says Stephen Console of Console Mattiacci Law in Philadelphia, who’s filed about 30 age and disability discrimination cases with administrative agencies since the pandemic started. “The question is what criteria they’re using to say who stays and who goes.”

But Steven Ludwig, a partner at Fox Rothschild in Philadelphia, says layoffs of older, better-paid workers may be legally defensible during this tough economic period. “If you decide not to bring someone back because of high compensation, that’s not age discrimination,” he argued.

Indeed, that’s one of the reasons it’s tough to challenge age discrimination in court under the Age Discrimination in Employment Act. Unlike in race and sex bias cases, plaintiffs must prove that age was a determinative factor in the employer’s decision and not just one motivating factor, under a 2009 U.S. Supreme Court interpretation of the ADEA.

A bill passed by House of Representatives in January would allow claimants to prevail if they simply demonstrate that age was a motivating factor. But Senate Republicans and the Trump administration oppose the Protecting Older Workers Against Discrimination Act, arguing that it would encourage a flood of frivolous cases.

Another challenge for plaintiffs is the ADEA only allows economic damages and liquidated damages based on back pay, but not punitive or pain-and-suffering awards.

Despite the hurdles, claims still are being brought. In June, a 70-year salesman at a national company won a confidential age discrimination settlement after he was laid off in March, along with five other people in his local sales unit who were in their 50s, 60s or 70s. Most of the salespeople in the unit

were under 50, none of whom lost their jobs, says Susan Ritz of Ritz Clark & Ben-Asher in New York City, who represented the salesman and is handling at least one other similar case.

Disability and preexisting conditions claims

Ironically, one of the biggest legal risks for employers may arise from good rather than bad intentions. Attorneys are seeing situations where employers, out of concern for the health of older employees, are telling or urging them to work from home rather than return to the office, in order to reduce their risk of COVID-19 infection, while bringing back younger workers.

But that's a potential violation of the ADEA, according to an updated June guidance on COVID-19 issues from the EEOC. While employers are free to provide flexibility to workers 65 and older, the law bars them from involuntarily excluding employees from the workplace based on age, even for benevolent reasons, the agency wrote.

"If the employer starts bringing folks back to work and intentionally excludes older employees unless instructed to do so by government authorities, that's age discrimination," says Eric Meyer, a partner at FisherBroyles in Philadelphia who represents employers.

Employers can, however, exclude an older employee from the workplace under the Americans with Disabilities Act if the employee has a medical condition that poses a direct threat to his or her health, and there's no way to provide a reasonable accommodation, the EEOC says.

Reasonable accommodations could include protective barriers, temporary job reassignment or a modified work schedule, according to the EEOC.

Older employees have divergent views about returning to the workplace during the pandemic, raising different legal issues for different groups.

Some workers who want to come back are being told to stay home. Others who ask to continue working from home or receive safer workplace accommodations because of worries about their own health or the health of someone in their household are being turned down, says Wendy Musell, a partner at Stewart & Musell in San Francisco who represents plaintiffs.

The ADEA does not require employers to provide accommodations based on age.

Some employers are firing or threatening to fire workers who refuse to return to the workplace out of safety fears, which in some states like Oklahoma means they could be cut off from unemployment benefits as well, says Rachel Bussett, an Oklahoma City attorney who's representing older and disabled workers facing that dilemma.



Wendy Musell, a partner at Stewart & Musell in San Francisco.

Plaintiff and defense attorneys agree that employers will have a much tougher time now than in the past in justifying decisions not to allow employees to work from home.

Employers' thinking about COVID-19 health risks to older employees could change if Congress passes broad liability protections for employers in case workers get sick. The Safe to Work Act proposal, written by Sen. John Cornyn, R-Texas, would give employers five years of legal protection if they make "reasonable efforts" to comply with government standards to protect workers from the coronavirus infection. But the fate of that proposal is uncertain.

Many states already have enacted some liability protections for businesses, though those don't apply to federal claims under the ADEA and ADA.

How judges and juries will react to these age- and disability-discrimination lawsuits during pandemic is uncertain, lawyers on both sides say.

"If an employer behaved particularly badly and tried to run out older and disabled workers, I think they'll be dealt with harshly," Musell says. "But if they tried to treat employees thoughtfully even if it was illegal, those will be much harder cases to win."

Harris Meyer is a Chicago-based health care and law reporter who has written for Kaiser Health News, Health Affairs, Modern Healthcare, the Wall Street Journal and many other publications.

Give us feedback, share a story tip or update, or report an error.



Copyright 2021 American Bar Association. All rights reserved.

ABA Membership Includes Free Online and On-Demand CLE.

Meet Your State Requirements,
Including Specialty Credits!

ABA™

Home / In-Depth Reporting / Coronavirus-related deaths in nursing homes...

FEATURE

Coronavirus-related deaths in nursing homes prompt lawsuits and questions about who's responsible

BY HARRIS MEYER

OCTOBER 1, 2020, 4:00 AM CDT (/MAGAZINE/ISSUE/2020/10/)

Like 739

Share

Tweet



Share



In mid-April, Faith Heimbrodt got a call from the Bria Health Services nursing home in Geneva, Illinois, saying her mother, Carol Orlando, was not in good health. She immediately feared COVID-19. But she says facility staff insisted her 79-year-old mother didn't show symptoms of the virus, and that her illness likely was due to her advanced dementia.

Alarmed, she got permission to visit her mother, even though the facility had been on lockdown since March. Heimbrodt, who has five children at home and suffers from multiple sclerosis, went wearing a gown, respirator and face shield, but she was shocked to see staff and residents without masks. A desperate-looking certified nursing assistant asked how she got her respirator, so she gave it to him.

Her mother's room was filthy, with dirty diapers on the floor. Her roommate was coughing, unmasked, in the adjoining bed, with no room divider. Orlando looked thin and dehydrated, her eyes sunken and her mouth covered with sores. Heimbrodt squeezed her mother's hand and leaned in close, wanting but not daring to lift her face shield and kiss her. She left sooner than she planned, nervous about the risk of exposure to the virus.

A week later, Heimbrodt got a call that her mother was dead. She arranged for a private autopsy, but the company called back to say they couldn't do it because Orlando's body bag was labeled "COVID." She found out a nursing home staffer had written that on the bag because she believed Orlando had the virus—even though the facility never tested her and denied she had it.



Carol Orlando, left, and her daughter, Faith Heimbrodt. Photo courtesy of the Orlando family.

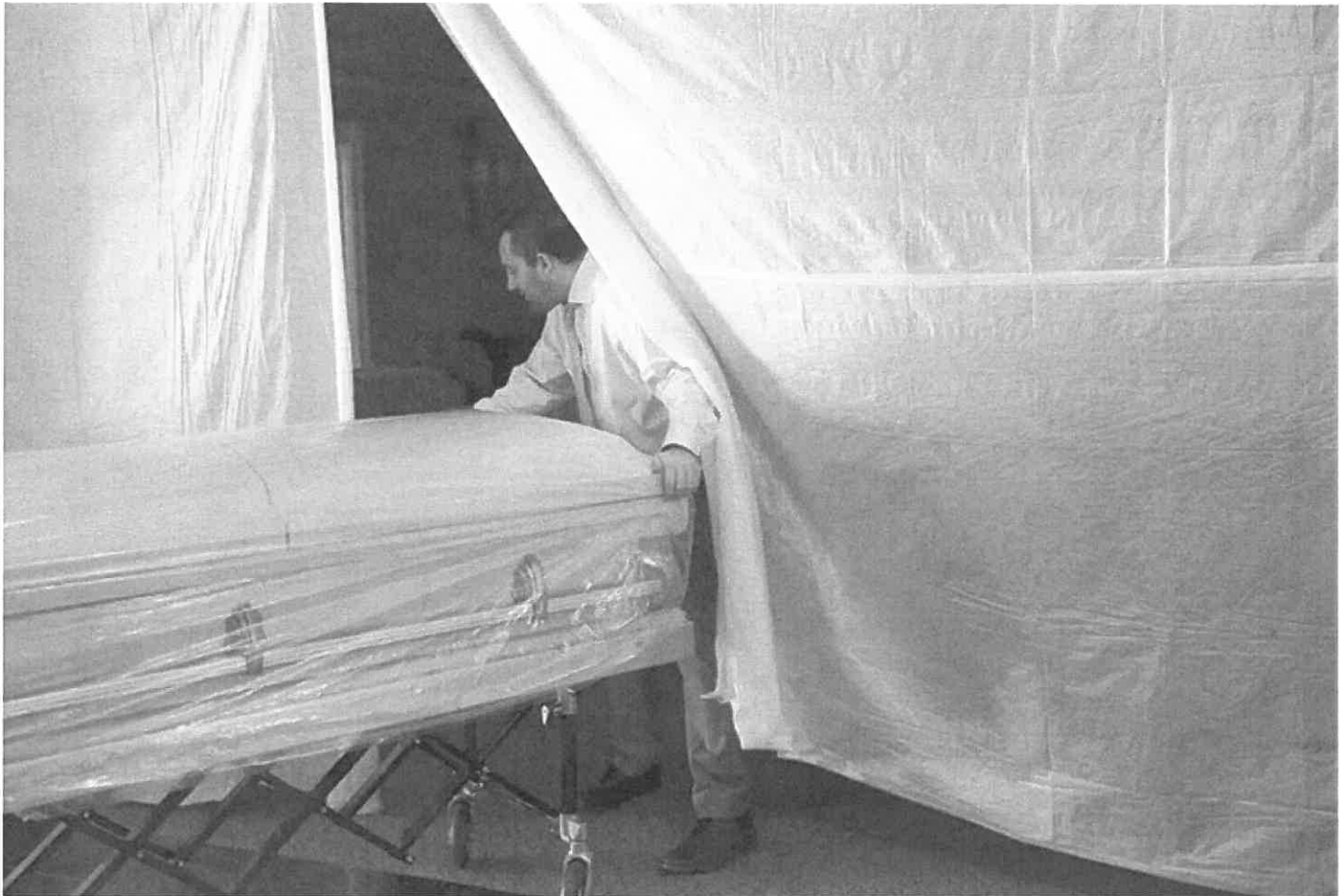
Orlando, whom the local coroner later determined had the virus, was one of many Bria residents who died from COVID-19. As of early September, the state of Illinois reported 136 Bria residents and staff members had tested positive for COVID-19, and 30 people there had died from it.

In early June, the Chicago law firm Levin & Perconti filed a lawsuit against Bria on Heimbrodt's behalf, claiming the facility was grossly negligent and engaged in willful and wanton conduct by failing to take the necessary steps to protect Orlando from the virus and provide adequate care once she got it.

The suit, filed in Kane County Circuit Court, alleges Bria did not have enough staff to adequately care for residents and failed to have staff wear personal protective equipment or undergo COVID-19 tests to prevent virus transmission to residents. It cites both the Illinois Nursing Home Care Act and common law tort theories.

“I think about my mother dying alone,” Heimbrodt says, noting Orlando had trained to become a CNA in middle age because of the poor care her own mother had received in a nursing home. “I hope my lawsuit and others will hold these nursing homes accountable.”

Natalie Bauer Luce, a Bria spokeswoman, says Heimbrodt’s statements to the *ABA Journal* about the conditions at Bria and the allegations in her lawsuit are unfounded. Luce says lawsuits like this one “send a dangerous message ... to the health care heroes on the front lines that their efforts to save lives will be used against them by personal injury lawyers seeking to profit by taking advantage of the global pandemic.”



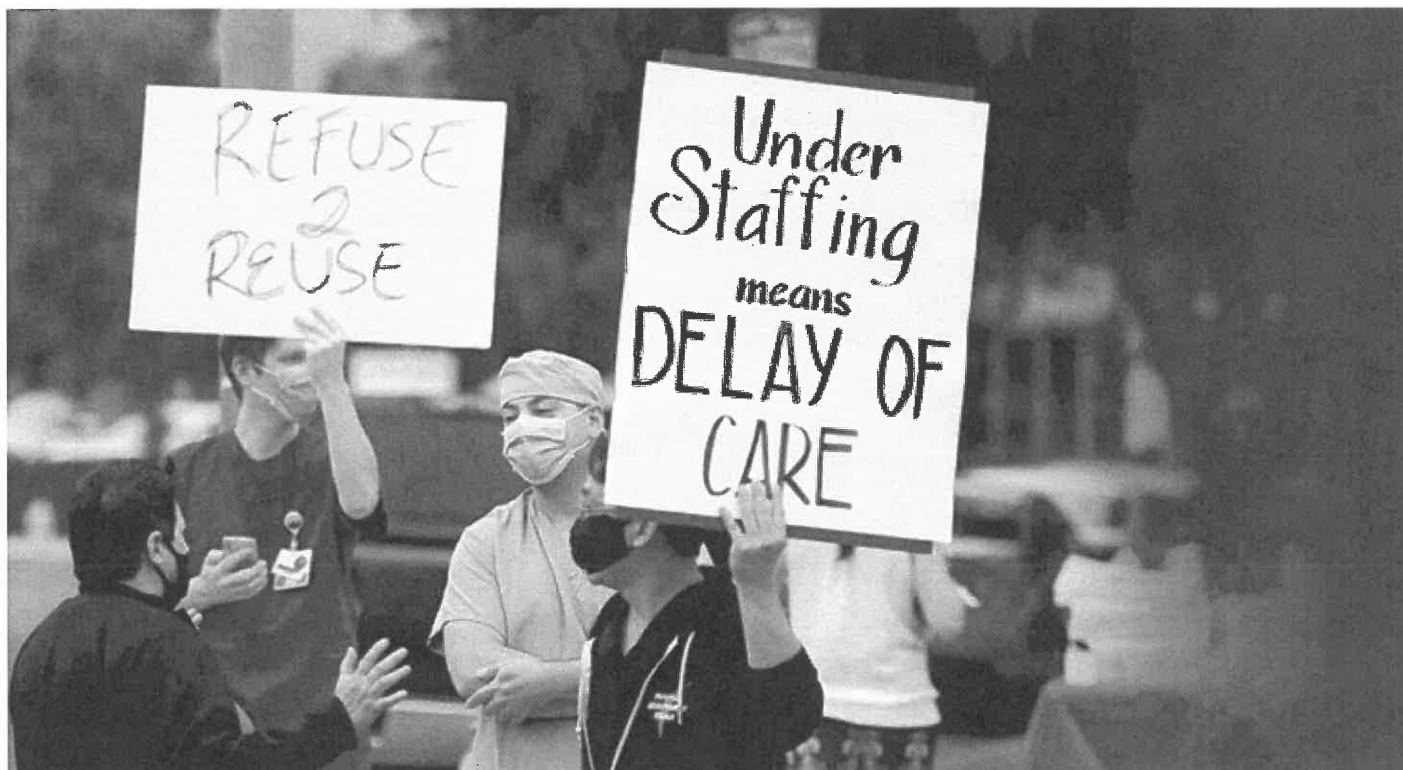
Funeral director Joe Ruggiero III moves a casket into a makeshift storage room at Ruggiero Family Memorial Home in East Boston in April. Jessica Rinaldi/Boston Globe via Getty Images.

Suits piling up nationally

Heimbrodt’s case is one of a growing number of negligence suits being filed across the country against nursing homes and other long-term care facilities by families whose relatives died from the coronavirus while living in such facilities. These cases rely on state nursing home resident protection statutes and/or common law tort theories.

There's no comprehensive database of case filings. But a COVID-19 complaint tracker posted on the website of the law firm Hunton Andrews Kurth shows 55 wrongful death lawsuits filed against long-term care facilities around the country as of early September. More suits are on the way, with plaintiffs attorneys in Florida, Massachusetts and other states that have mandatory presuit screening periods saying they are investigating and preparing to file cases.

Whether it's a flood or a moderate flow, these cases will present unprecedented questions for judges, juries and arbitrators. They will have to decide whether and how to apportion responsibility for the deaths of the nation's most medically vulnerable population among long-term care operators who were scrambling in the midst of the chaos and confusion during the worst public health emergency in a century.



Nurses staged a protest in June in West Hills, California, with support from the local registered nurses' union. The nurses were demanding an end to "critically" low staffing, insufficient personal protective equipment, silencing of whistleblowers and a lack of transparency in the wake of cuts made during the coronavirus pandemic. Photo by Frederic J. Brown/AFP via Getty Images.

"It will be really interesting to see how well the courts are able to balance the nuances of who's really to blame at a facility when, nationally, we didn't have a lot of information about the virus, and there weren't a lot of resources," says David Grabowski, a health care policy professor at Harvard Medical School who studies long-term care. "That's not to say there aren't bad apples that deserve to be held accountable."

More than 51,000 of the nation's 1.4 million nursing home residents, who generally are elderly and/or disabled, have died of COVID-19 since the beginning of this year, accounting for a large share of the more than 188,000 COVID-19 deaths in the United States as of early September, according to the Kaiser Family Foundation and a New York Times database.

Over 750 nursing home employees spread across the 15,000 federally certified nursing homes also have died from the virus, and plaintiffs lawyers say they're getting requests from their families to explore lawsuits. But those cases generally must be handled through state workers' compensation systems, which tightly cap death benefits.

In most cases filed so far on behalf of residents, the plaintiffs say nursing home staff did not disclose timely truthful information to them about COVID-19 cases in the facility, infection control procedures, and the health status and care of their relatives before they died. Many still haven't been able to obtain their relatives' medical records even months after their deaths. A lawsuit is the only way to piece together the stories, their attorneys say.

But plaintiffs and their attorneys face formidable obstacles in bringing these cases. At least 26 states, including Illinois, Michigan, New Jersey and New York, have implemented immunity provisions protecting long-term care facilities and other health care providers from civil negligence lawsuits arising from the COVID-19 pandemic—including decisions resulting from resource or staffing shortages. They provide immunity for acts or omissions that happened after state public emergency orders were issued in March, but not before.

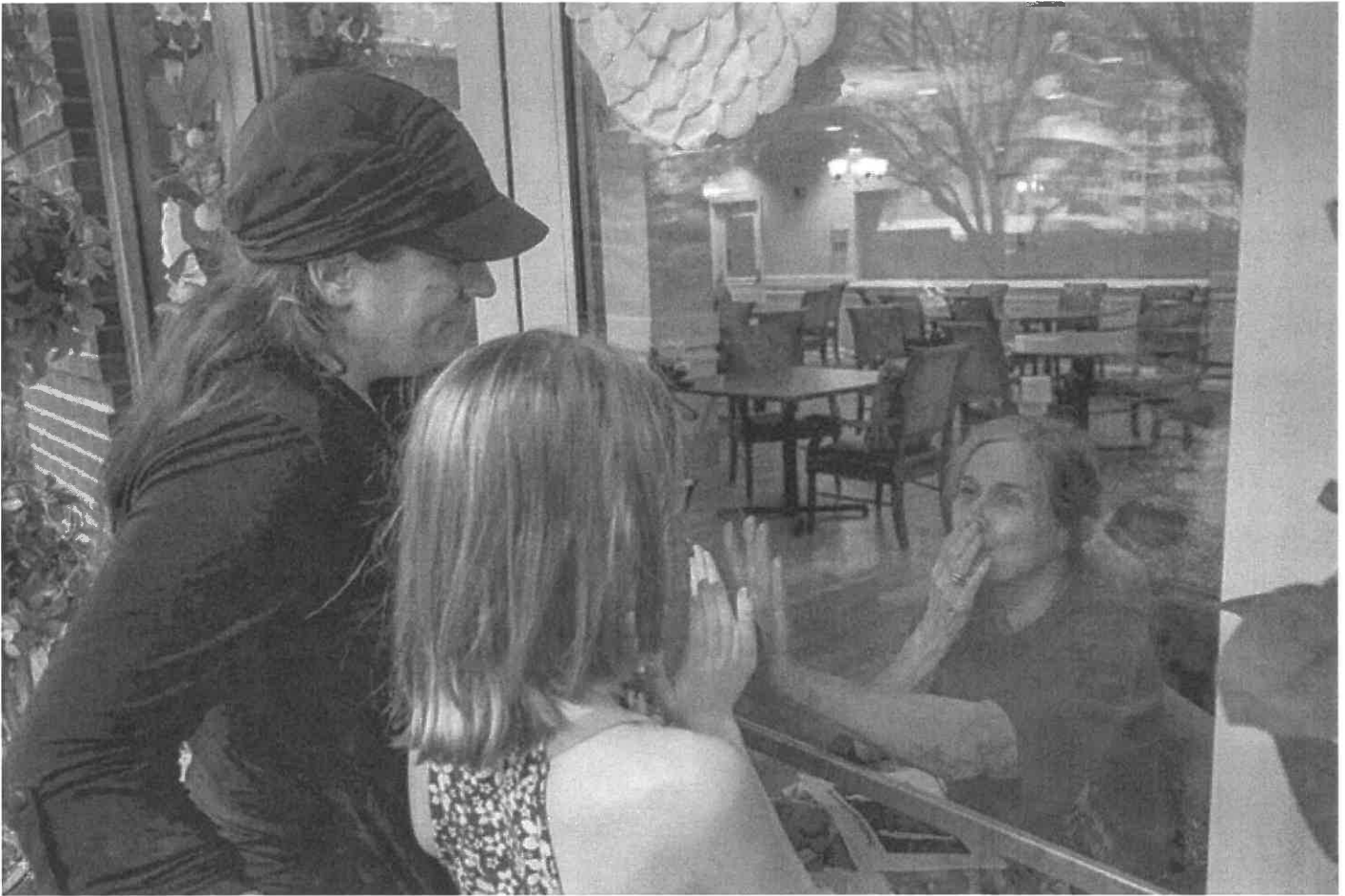
Those measures generally bar claims for standard negligence, only allowing claims for harder-to-prove gross negligence, willful misconduct or fraud. Gross negligence typically requires demonstrating deliberate or reckless disregard for a resident's health and safety, which is a higher standard than simply showing the facility did not follow the common standard of care.

Senate Majority Leader Mitch McConnell, R-Ky., is pushing for broad immunity provisions covering all states, though the fate of that proposal is uncertain because Democrats are strongly opposed.

The Safe to Work Act, sponsored by Sen. John Cornyn, R-Texas, would give nursing homes and other businesses five years of legal protection if they make "reasonable efforts" to comply with government standards to protect residents, staff and others from the coronavirus. It would allow any defendant to remove a COVID-19 exposure lawsuit to federal court. Lawsuits would be limited to allegations of gross negligence or willful misconduct, which could not include acts or omissions resulting from resource or staffing shortages.

Steven Levin, who's bringing the Carol Orlando case, says he will overcome the immunity barrier in Illinois and other states by initially proceeding against "the worst actors, with a poor regulatory history and no infection-control procedures in place, that didn't tell the truth to families and forced employees to come to work when they were sick with COVID-19."

Beyond that, plaintiffs attorneys acknowledge it will be challenging to prove that a nursing home's



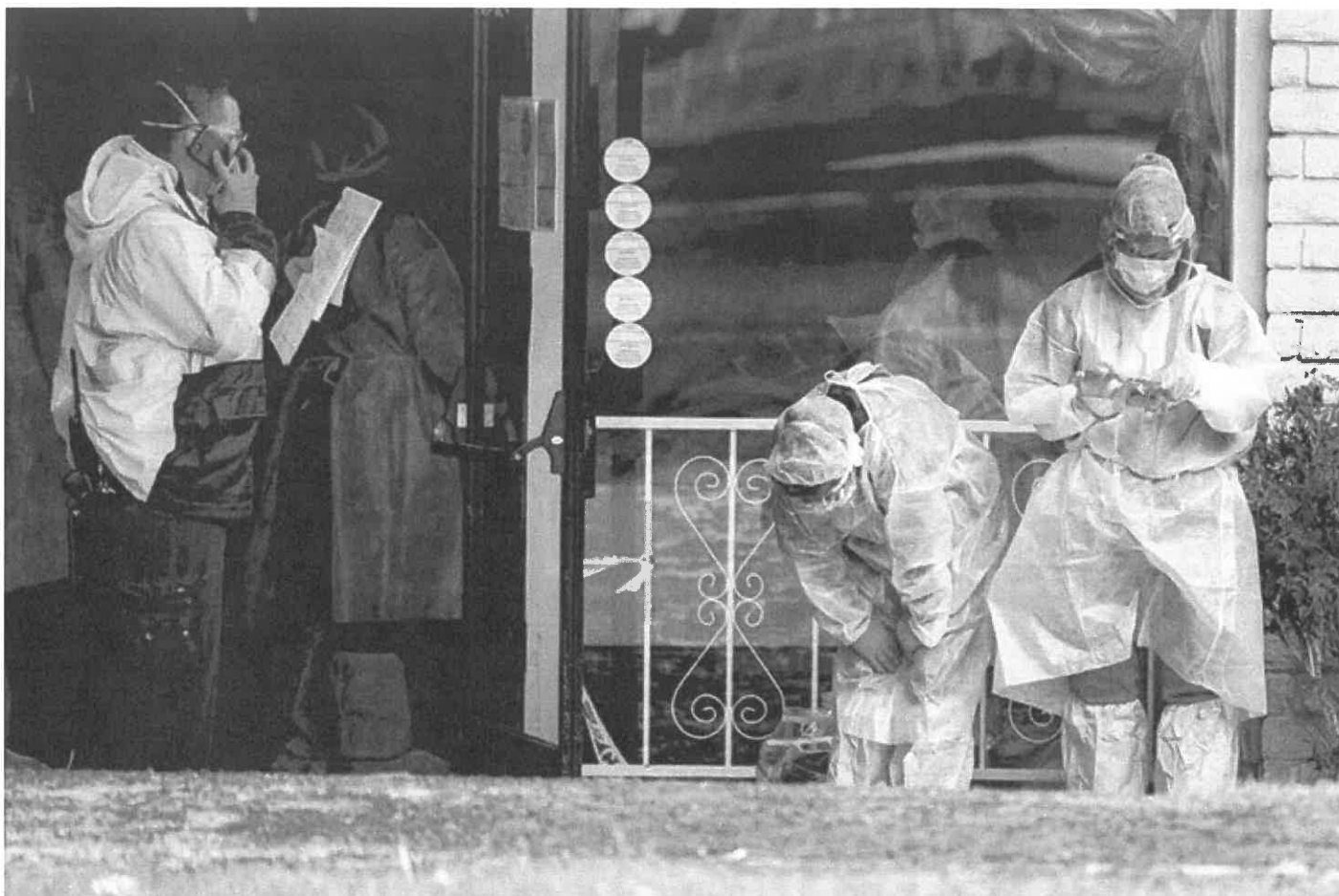
Anna Epstein and her daughter, Ridley, say good-bye to Anna's mother, Donna Forsman, after chatting via cellphone during a through-the-door visit at Brookdale Arlington Senior Living in Arlington, Virginia, in March. Photo by Jahi Chikwendiu/ Washington Post via Getty Images.

conduct, such as failure to establish proper infection control procedures like masking of staff and isolation of residents testing positive for COVID-19, directly caused a resident to become infected and die.

"These won't be easy suits," says Levin, whose firm has received requests from more than 100 families to explore litigation. "The nursing home might say, 'A family member brought the virus into the facility, and it spread like wildfire. How could anyone have done anything?' We'll show they could have done things to be better prepared."

Defense attorneys will plausibly argue that good-faith efforts by nursing homes were hampered by delayed or faulty policy guidance from state and federal agencies and by the nationwide shortage of personal protection equipment and coronavirus test kits. The federal Centers for Medicare and Medicaid Services didn't order nursing homes to restrict visitors and communal activities until March 13. The timeline of events in these cases will be key.

"Nursing home administrators were screaming for PPE, and they weren't getting it," says Kelly Giampa, an attorney at Lindsay Hart in Portland, Oregon, who represents Healthcare at Foster



Medical staff in full personal protective equipment take a breather while helping to remove patients from Magnolia Rehabilitation and Nursing Center in Riverside, California, in April, after 39 patients and staff tested positive for the coronavirus. Nursing staff was not showing up to work for their own safety. Photo by Gina Ferazzi / Contributor / Los Angeles Times via Getty Images.

Creek, which has been sued by six families over COVID-19 deaths. “The cases will be very fact-specific. What was the availability of PPE, and what efforts were made to get it?”

Plus, many or most of these cases ultimately will be handled through arbitration because nursing homes increasingly require residents and their families to sign mandatory arbitration agreements. Plaintiffs attorneys sometimes can nullify such agreements by, for instance, showing that the relative who signed lacked power of attorney for the resident. But they say they’d much rather take these cases to juries.

Some of the facilities with the largest COVID-19 outbreaks and death totals already have been hit with lawsuits. They include Healthcare at Foster Creek, which was shut down by the state in early May and had 34 of its residents die from the virus; Hollywood Premier Healthcare Center in Los Angeles, where at least 16 residents died from the virus and the National Guard was deployed to help

with the crisis; and the Linden Center for Nursing and Rehabilitation in Brooklyn, New York, where an estimated 23 residents died from COVID-19 and where dead bodies were held for days in “overflow rooms” cooled only by air conditioners.

The complaints in these and other cases sometimes stress the facilities’ extensive histories of violations of state and federal health and safety rules. That will be a battleground, because courts often rule that such evidence is irrelevant and inadmissible, says Linda Clark, a partner at Barclay Damon in Albany, New York.

Plaintiffs attorneys will press hard to admit evidence of a facility’s prior troubled history to show it was a “ticking time bomb,” strengthening their gross negligence claim, says plaintiffs attorney David Hoey of Hoey Law in North Reading, Massachusetts, where the governor signed an immunity order allowing only claims of gross negligence.

The nursing home industry says that without strong immunity measures in every state, the number of lawsuits will threaten the industry’s survival.

“More needs to be done to afford appropriate legal protection to those that are working hard to prevent and contain this virus,” says Mark Parkinson, president and CEO of the American Health Care Association and National Center for Assisted Living. “We encourage states and the federal government to take action to extend immunity provisions to the long-term care providers and other health care sectors.

“Long-term care workers and centers are on the front line of this pandemic response, and it is critical that states provide the necessary liability protection staff, and providers need to provide care during this difficult time without fear of reprisal,” he adds.

Attorneys experienced in bringing nursing home cases predict only the worst offenders will be targeted.

Who’s to blame?

Up until now, most nursing home liability cases have focused on common though potentially fatal lapses in care such as failure to prevent falls or pressure sores. These cases are based on negligence law and state nursing home resident protection statutes modeled on the federal Nursing Home Reform Act of 1987. They sometimes yield seven-figure awards, with punitive damages permitted in some states. Some states cap noneconomic damages.

In most cases, family members visiting relatives are the ones who identify care problems. But with nursing homes closed to visitors since March, there’s no one other than facility staff regularly monitoring residents’ care. That has led to a steep drop-off in the usual types of nursing home negligence claims, plaintiffs attorneys say.

“Because the residents’ kids can’t enter the facilities, those injuries aren’t being reported, and that’s deeply disturbing,” says Michael Brevda, a partner at the Senior Justice Law Firm in Boca Raton, Florida.



Kathy Johnson visits her husband, Michael Johnson, at the North Ridge Health and Rehab nursing home in New Hope, Minnesota. Photo by Richard Tsong-Taatarii/Star Tribune via Getty Images.

Thus, plaintiffs will have to rely, to an unusual extent, on medical records as well as accounts from current and former nursing home employees, some of whom have been speaking to the news media and plaintiffs attorneys about conditions inside the facilities.

For instance, Alexander Clem, an attorney at Morgan & Morgan in Orlando, Florida, is preparing a case against the Suwannee Health and Rehabilitation Center in Live Oak based in part on information provided by a former CNA at the facility. She has told news media outlets that managers concealed residents' fevers by putting ice packs on their heads to avoid having to report COVID-19 cases and discouraged staff from getting tested. At least 19 residents have died from the virus.

"When you have a scenario like that where there is substantial evidence that management of a facility took action to cover up incidence of COVID, I don't think a jury or arbitration panel will ever give them a pass on liability," says Clem, whose state has not established immunity for nursing homes.

Suwannee did not return a call seeking comment.

Some observers predict that evidence of COVID-19 cover-ups will emerge at other facilities, too. They say such claims, if proved, will rise to the level of willful misconduct and pierce state immunity provisions.

Dr. Michael Wasserman, president of the California Association of Long-Term Care Medicine and medical director at the Eisenberg Village nursing home in Reseda, California, says he's talked to nursing home physicians and managers who sought to test staff or residents for the virus but were overruled by administrators. One was fired and is planning to sue. "So many of my colleagues wouldn't go public with their stories of management's resistance to testing, but I think ultimately these stories will come out in lawsuits," he says.

Defense attorney Giampa says she's not worried about what employees say. "In every case, we have staff members who say, 'We were short-staffed, I complained about this and that,'" she says. "You have to drill down and see how accurate it is."

Key strategy qualifiers

Even if a facility didn't engage in a cover-up, the chronology of its actions to prevent or minimize the spread of the virus will be crucial, Clem says.

It's one thing if a resident contracted COVID-19 in mid-February, after the first nursing home outbreak was suspected in Washington state but the risk of asymptomatic transmission wasn't widely known. It's quite different if facility management failed to implement strict measures by mid-March.

"At that point, management damn sure knew this was a crisis of pandemic proportions," Clem says. "Then, what were you doing to prevent onset of the virus? And once you became aware of a case, what did you do?"



Scott Weinstein, a nurse at Medstar Washington Hospital Center, places nurses' shoes on the lawn of the U.S. Capitol in Washington, D.C., during a vigil in July for nurses who have died from COVID-19. Photo by Tasos Katopodis/Getty Images.

Plaintiffs attorneys say most of the COVID-19 cases coming to them involve for-profit nursing homes, which they believe are more likely than not-for-profit operators to skimp on staffing to boost profits, and their complex ownership structures make attorney investigations difficult. The nursing home industry blames low Medicaid payment rates and a shortage of willing and qualified direct care workers for the chronic understaffing.

A major theme in the COVID-19 lawsuits filed so far is that families are angry about what they see as a lack of transparency and honesty by nursing homes in the days leading up to their loved one's death. That's a big part of a lawsuit filed in mid-May by the Portland firm Richardson Wright against

Healthcare at Foster Creek, and amended in June to add five more families of deceased residents as plaintiffs.

Giampa, who's representing Foster Creek, declined to comment specifically on the Foster Creek lawsuit.

Giampa predicts COVID-19 nursing home liability cases will be unusually tough and emotional, drawing on the intense feelings of judges, jurors and arbitrators about their own experiences during this unprecedented period of national turmoil.

"COVID has impacted everyone, and whether these cases get tried in six months or four years, people on our juries are not going to forget what this time was like," she says. "They will remember that these caregivers showed up for work, risking infection to themselves and their families, and doing the best they could every day."

But personal experiences could cut the other way, too. "Jurors will remember all the actions and sacrifices they made in their private lives, wearing masks, staying home and disinfecting food," Brevda says. "It will enrage them that nursing homes failed to similarly follow infection protocols."

This story was originally published in the October-November 2020 issue of the ABA Journal under the headline: "A Question of Neglect? Coronavirus-related deaths in nursing homes seed lawsuits and questions about who's responsible"

Harris Meyer is a Chicago-based health care and law reporter who has written for Kaiser Health News, Health Affairs, Modern Healthcare, the Wall Street Journal, and many other publications.

Give us feedback, share a story tip or update, or report an error.



Copyright 2021 American Bar Association. All rights reserved.

SB 63 - AS INTRODUCED

2021 SESSION

21-0828
05/04

SENATE BILL **63**

AN ACT relative to business liability protection for exposure to coronavirus and COVID-19.

SPONSORS: Sen. Giuda, Dist 2; Sen. Hennessey, Dist 1; Sen. Carson, Dist 14; Sen. Gannon, Dist 23; Sen. Morse, Dist 22; Rep. L. Ober, Hills. 37; Rep. Weyler, Rock. 13; Rep. Edwards, Rock. 4; Rep. Stapleton, Sull. 5

COMMITTEE: Commerce

ANALYSIS

This bill limits the liability of business organizations for claims based on exposure to COVID-19.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to business liability protection for exposure to coronavirus and COVID-19.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Chapter; Limited Liability for Coronavirus Exposure. Amend RSA by inserting after
2 chapter 546-B the following new chapter:

3 CHAPTER 546-C

4 LIMITED LIABILITY FOR CORONAVIRUS EXPOSURE

5 546-C:1 Definitions. In this chapter:

6 I. "COVID-19" and "coronavirus" mean:

7 (a) Severe acute respiratory syndrome coronavirus 2; or

8 (b) Any ailment or disease caused or exacerbated by severe acute respiratory syndrome
9 coronavirus 2.

10 II. "Gross negligence" means means an act or omission that, when viewed objectively from
11 the standpoint of the actor at the time of its occurrence, creates risk to third parties by knowingly
12 operating in violation of published government COVID-19 guidance in effect at the time of the
13 alleged act.

14 III. "Business organization" means any enterprise, whether corporation, partnership,
15 limited liability company, proprietorship, association, business trust, real estate trust or other form
16 of organization that is carrying on any business activity within the state regardless of whether it is
17 (1) organized for gain or profit, or (2) organized as a nonprofit or tax-exempt organization.

18 546-C:2 Limitation of Liability for Exposure to Coronavirus and COVID-19. Notwithstanding
19 any other provision of law to the contrary and except as provided in RSA 546-C:3, as a matter of law,
20 no business organization shall be liable for personal injury resulting from or related to an actual or
21 alleged exposure to coronavirus in the course of such business organization's business activity, or in
22 the course of working for such business organization in any capacity, provided that in the
23 performance of its business activity at the time of alleged or actual exposure, the business
24 organization was following applicable government standards and guidance related to coronavirus
25 exposure.

26 546-C:3 Liability Exceptions. RSA 546-C:2 shall not apply if the person alleging personal injury
27 resulting from or related to the actual or alleged exposure to coronavirus proves by clear and
28 convincing evidence that the injuries were the result of:

29 (a) Gross negligence;

30 (b) Willful misconduct;

31 (c) Intentional criminal misconduct; or

SB 63 - AS INTRODUCED

- Page 2 -

1 (d) Intentional infliction of harm.

2 546-C:4 Causation. Any person claiming to have suffered personal injury as a result of exposure
3 to COVID-19 shall prove by clear and convincing evidence that the defendant was the proximate
4 cause of the injuries allegedly suffered.

5 546-C:5 Statute of Limitations. Any suit for any alleged injury arising from COVID-19 shall be
6 commenced not later than one year after the day the cause of action accrues.

7 546-C:6 Construction. Nothing in this chapter shall be construed to create a new cause of action
8 or expand any liability otherwise imposed, limit any defense, or affect the applicability of any law
9 that affords greater protections to defendants that are provided in this chapter.

10 546-C:7 Effect on Other Laws. Nothing in this chapter shall affect a person's rights under RSA
11 281-A.

12 2 Effective Date. This act shall take effect upon its passage.