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9  
 10 **UNITED STATES DISTRICT COURT**  
 11 **CENTRAL DISTRICT OF CALIFORNIA**

12 AUDREY HAYES,  
 13  
 14 Plaintiff,

15 vs.

16 PRINCESS CRUISE LINES, LTD. and  
 17 DOES 1 – 10,  
 18  
 19 Defendants.

CASE NO.:

**PLAINTIFF’S COMPLAINT  
 AND DEMAND FOR JURY TRIAL**

20 **COMPLAINT AND DEMAND FOR JURY TRIAL**

21 Plaintiff, AUDREY HAYES, brings this action individually. This action is  
 22 brought against Defendant, PRINCESS CRUISE LINES, LTD. (hereinafter  
 23 “PRINCESS”), and Defendants, DOES 1 – 10, for personal injuries sustained by  
 24 Plaintiff, AUDREY HAYES. Plaintiff, AUDREY HAYES, seeks damages and  
 25 demands a jury trial on all issues so triable against Defendants.  
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**Jurisdiction**

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2 1. This is an action arising under general maritime law and the laws of  
3 California, as applicable.  
4

5 2. The matter in controversy exceeds, exclusive of interests and costs, the  
6 sum specified by 28 U.S.C. § 1332. In the alternative, if diversity jurisdiction does  
7 not apply, then this matter falls under the admiralty and maritime jurisdiction of this  
8 Court.  
9

10 3. This action is being pursued in this Court, as opposed to state court as  
11 otherwise allowed by the Saving to Suitors Clause of 28 U.S.C. §1333, because  
12 PRINCESS unilaterally inserts a forum selection clause into its cruise tickets that  
13 requires its passengers to file cruise-related suits *only in this federal district and*  
14 *division*, as opposed to any other place in the world.  
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17 4. Defendant PRINCESS, at all times material hereto, personally or  
18 through an agent:  
19

20 a. Operated, conducted, engaged in or carried on a business venture in this  
21 state and/or county or had an office or agency in this state and/or  
22 county;  
23

24 b. Was engaged in substantial activity within this state;

25 c. Operated vessels in the waters of this state;

26 d. Purposefully availed themselves of the benefits of conducting activities  
27 in California by purposefully directing their activities toward the state,  
28





1 when she tripped and fell as she was attempting to enter a theatre aboard the vessel.<sup>1</sup>

2  
3 15. Plaintiff's injury occurred as a result of, but not limited to, the presence  
4 of the following dangerous conditions aboard the vessel at the time of the subject  
5 incident: (1) the lack of and/or inadequacy of handrails in the subject hallway; (2)  
6 Defendants' failure to safely maintain the subject hallway, which resulted in the  
7 presence of fringe pieces of carpet that created tripping hazards for passengers, such  
8 as Plaintiff; (3) the unreasonable steepness of the incline present in the subject  
9 hallway, which was too steep and/or difficult to traverse for people of older age  
10 and/or with physical handicaps, like Plaintiff; (4) the inadequate lighting provided in  
11 the subject hallway; and (5) Defendants' failure to provide ushers to assist  
12 passengers traverse the subject hallway.  
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16 16. These dangerous conditions were either created by the Defendants and  
17 their employees or had been in place for a sufficient period of time so that the  
18 Defendants knew or should have known about them through the exercise of  
19 reasonable care.  
20

21 17. Discovery in this matter will reveal that Defendants had actual and/or  
22 constructive knowledge of the dangerous conditions outlined above based upon  
23 prior incidents resulting in personal injuries to Defendants' passengers, and those  
24 prior incidents were substantially similar to Plaintiff's incident here, such that,  
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27 <sup>1</sup> The Parties' respective counsel previously agreed to extend the limitations period of Plaintiff's claims to  
28 April 21, 2020.

1 Defendants, in the exercise of reasonable care, knew and/or should have known of  
2 these dangerous conditions and should have taken corrective measure to remedy  
3 them before Plaintiff's injury-producing incident.  
4

5 18. Alternatively, the Defendants and/or their employees, at all material  
6 times, undertook a duty to maintain the subject hallway to ensure that passengers,  
7 including the Plaintiff, could safely pass traverse the area without sustaining  
8 injuries; thereby, Defendants acquired a duty to exercise reasonable care in those  
9 undertakings.  
10

11 19. The dangerous conditions outlined above were not open and/or obvious  
12 to any reasonable person, including Plaintiff, and there were no warning signs  
13 present to alert the Plaintiff of the same.  
14

15 20. As a result of the negligence of Defendants, its vessel and/or crew, the  
16 Plaintiff sustained serious, permanent and debilitating injuries to her left arm and  
17 hand, which required surgery and extensive ongoing medical care.  
18

19  
20 **FIRST CAUSE OF ACTION**  
21 **GENERAL MARITIME NEGLIGENCE AGAINST DEFENDANTS**

22 21. Plaintiff hereby incorporates by reference, as though fully set forth  
23 herein, paragraphs 1 through 20, and alleges as follows:

24 22. At all times material, Defendants owed the Plaintiff a non-delegable  
25 duty to exercise reasonable care required of an ocean common carrier for the safety  
26 of a fare-paying passenger, including Plaintiff.  
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1           23.     Alternatively, at all material times, Defendants and/or their employees,  
2 engaged in certain affirmative undertakings, as alleged herein, and in doing so,  
3  
4 acquired a duty to exercise reasonable care in those undertakings.

5           24.     On or about January 22, 2019, the Defendants and/or their agents,  
6 servants, joint venturers and/or employees, breached their duty to provide the  
7  
8 Plaintiff with reasonable care under the circumstances and the Plaintiff was injured,  
9 due to the fault and/or negligence of Defendants and/or their agents, servants, joint  
10 venturers and/or employees, as a result of, but not limited to, the following:

- 11           a.     Failure to provide its passengers, including the Plaintiff, with  
12                 reasonable care under the circumstances;  
13  
14           b.     Failure to provide a reasonably safe place to walk as it pertains to the  
15                 subject hallway;  
16  
17           c.     Failure to equip and/or adequately equip the subject hallway with hand  
18                 rails to assist passengers, including Plaintiff, in traversing the subject  
19                 hallway;  
20  
21           d.     Failure to promulgate and/or enforce adequate procedures with regard  
22                 to providing assistance to elderly and/or handicap passengers, including  
23                 Plaintiff, in and out of the theatre in a safe manner, including the  
24                 provision of ushers to assist passengers, including Plaintiff, traverse the  
25                 subject hallway;  
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27           e.     Failure to ensure that the subject hallway was not unreasonably steep  
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- for passengers' use;
- f. Failure to ensure that the subject hallway was reasonably lit so that passengers, including Plaintiff, could safely traverse the subject hallway;
- g. Failure to promulgate and/or enforce adequate maintenance procedures to keep the subject hallway free of carpet fringes which presented tripping hazards;
- h. Failure to man the subject hallway with any and/or a sufficient amount of staff and/or ushers to assist passengers, including Plaintiff, traverse the subject hallway and/or monitor the area for tripping hazards;
- i. Failure to promulgate and/or enforce adequate policies and/or procedures with regard to detecting and preventing incidents, such as the Plaintiff's, from occurring on its vessels, including but not limited to the *Crown Princess*.
- j. Failure to correct the dangerous or hazardous conditions which caused the Plaintiff to suffer her incident, as outlined above;
- k. Failure to eliminate or modify the dangerous or hazardous conditions which caused the Plaintiff to suffer her injuries;
- l. Failure to properly train and/or instruct its employees/crewmembers to detect, report and remedy dangerous and/or hazardous conditions;
- m. Failure to ascertain the cause of prior similar accidents happening on



1 any of the Defendants' vessels fleet wide so as to take adequate  
2 measures to prevent their reoccurrence, and more particularly  
3 Plaintiff's incident; and/or all of which caused and/or contributed to the  
4 Plaintiff becoming injured;  
5

6 n. Other acts or omissions constituting a breach of the duty to use  
7 reasonable care under the circumstances which are revealed through  
8 discovery.  
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10 25. At all material times, Defendants had exclusive custody and control of  
11 the above-named vessel.  
12

13 26. As a result of the negligence of Defendants, the Plaintiff was injured  
14 about Plaintiff's body and extremities, suffered physical pain, mental anguish, loss  
15 of enjoyment of life, disability, disfigurement, aggravation of any previously  
16 existing conditions therefore, incurred medical expenses in the care and treatment of  
17 Plaintiff's injures and suffered physical handicap. The injuries are permanent and  
18 continuing in nature, and Plaintiff will suffer the losses and impairments in the  
19 future. In addition, Plaintiff lost the benefit of her vacation, cruise, and  
20 transportation costs.  
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23

24 **WHEREFORE**, the Plaintiff demands judgment for all damages recoverable  
25 under the law against the Defendants and demands trial by jury.  
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1 hazards for passengers, such as Plaintiff; (3) the unreasonable steepness  
2 of the incline present in the subject hallway, which was too steep and/or  
3 difficult to traverse for people of older age and/or with physical  
4 handicaps, like Plaintiff; (4) the inadequate lighting provided in the  
5 subject hallway; and (5) Defendants' failure to provide ushers to assist  
6 passengers traverse the subject hallway;  
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9 b. Failure to warn passengers and the Plaintiff of other similar injury-  
10 producing incidents which previously occurred in the same area, on  
11 same deck and/or in the same hallway as Plaintiff's incident;  
12

13 31. At all material times, Defendants had exclusive custody and control of  
14 the above-named vessel.  
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16 32. As a result of the negligence of Defendants, the Plaintiff was injured  
17 about Plaintiff's body and extremities, suffered physical pain, mental anguish, loss  
18 of enjoyment of life, disability, disfigurement, aggravation of any previously  
19 existing conditions therefore, incurred medical expenses in the care and treatment of  
20 Plaintiff's injures and suffered physical handicap. The injuries are permanent and  
21 continuing in nature, and Plaintiff will suffer the losses and impairments in the  
22 future. In addition, Plaintiff lost the benefit of her vacation, cruise, and  
23 transportation costs.  
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26 **WHEREFORE**, the Plaintiff demands judgment for all damages recoverable  
27 under the law against the Defendants and demands trial by jury.  
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1 of fringe pieces of carpet that created tripping hazards for passengers,  
2 such as Plaintiff; (3) the unreasonable steepness of the incline present  
3 in the subject hallway, which was too steep and/or difficult to traverse  
4 for people of older age and/or with physical handicaps, like Plaintiff;  
5 (4) the inadequate lighting provided in the subject hallway; and (5)  
6 Defendants' failure to provide ushers to assist passengers traverse the  
7 subject hallway;  
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10 c. Failure to routinely inspect the area on a reasonably timely basis to  
11 identify dangerous conditions, including, but not limited to those  
12 outlined above;  
13

14 d. Failure to provide proper maintenance to the existing carpet on/around  
15 the subject hallway to prevent it from becoming fringed.  
16

17 37. At all material times, Defendants had exclusive custody and control of  
18 the above-named vessel.  
19

20 38. As a result of the negligence of Defendants, the Plaintiff was injured  
21 about Plaintiff's body and extremities, suffered physical pain, mental anguish, loss  
22 of enjoyment of life, disability, disfigurement, aggravation of any previously  
23 existing conditions therefore, incurred medical expenses in the care and treatment of  
24 Plaintiff's injuries and suffered physical handicap. The injuries are permanent and  
25 continuing in nature, and Plaintiff will suffer the losses and impairments in the  
26 future. In addition, Plaintiff lost the benefit of her vacation, cruise, and  
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1 transportation costs.

2           **WHEREFORE**, the Plaintiff demands judgment for all damages recoverable  
3  
4 under the law against the Defendants and demands trial by jury.

5                                   **FOURTH CAUSE OF ACTION**  
6                                   **MEDICAL NEGLIGENCE AGAINST PRINCESS**  
7                                   **UNDER A THEORY OF VICARIOUS LIABILITY**

8           39. Plaintiff hereby incorporates by reference, as though fully set forth  
9 herein, paragraphs 1 through 20, and alleges as follows:

10           40. At all times material, Defendants owed the Plaintiff a non-delegable  
11 duty to exercise reasonable care required of an ocean common carrier for the safety  
12 of a fare-paying passenger.  
13

14           41. On or about January 22, 2019, and after Plaintiff sustained her injury,  
15 she reported to the medical facility aboard the ship for medical treatment. Although  
16 medical professionals aboard PRINCESS' vessel performed an x-ray(s) of  
17 Plaintiff's injured right shoulder, but failed to detect that she had fractures same in  
18 multiple places. PRINCESS' and/or its agents' failure to timely and/or properly  
19 diagnose Plaintiff's injuries caused her to suffer additional pain and/or injuries.  
20

21           42. As part of providing vacation cruises, PRINCESS advertised, marketed  
22 and promoted that a competent physician and ship's medical center are available in  
23 the event passengers need medical care for customary charges. PRINCESS  
24 represented that its onboard medical facilities "meet or exceed the standards  
25 established by the American College of Emergency Physicians." PRINCESS  
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1 further advertised, marketed and promoted that as a member of Cruise Line  
2 International Association, and it had adopted the Cruise Industry Passenger Bill of  
3 Rights which guarantees its passengers, including the Plaintiff, the right to have  
4 “full-time, professional emergency medical attention.”  
5

6 43. PRINCESS employed and/or contracted with and/or provided the  
7 Medical Staff on board the vessel in connection with its operation of the vessel as  
8 part of PRINCESS’s business of operating cruise ships and not solely for the  
9 convenience of passengers.  
10

11 44. At all times material, the PRINCESS relied upon and directed the  
12 Medical Staff to perform specified duties to assist them in complying with its  
13 regulatory duties and obligations, including but not limited to those set forth by the  
14 U.S. Public Health Service, Drug Enforcement Agency, Coast Guard and Center for  
15 Disease Control. PRINCESS also relied upon and directed Medical Staff to fulfill  
16 the requirements of the vessel’s flag state, to carry a licensed physician as well as  
17 those of the United States under both the Cruise Vessel Safety and Security Act, and  
18 the general maritime requirement of maintenance and cure owed to its seamen  
19 operating the vessel.  
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24 45. At all material times, PRINCESS charged money to passengers for the  
25 medical services it provided. Thereby, PRINCESS is in the business of providing  
26 medical services to passengers for profit, and/or PRINCESS is in the business of  
27 operating a floating hospital for their own profit. Herein, PRINCESS charged Plaintiff  
28

1 a fee for the medical treatment performed by the Medical Staff aboard its vessel and  
2 for the medicine provided to the Plaintiff. All of the charges for the medical treatment  
3 and medicine were charged directly to Plaintiff's onboard credit program (or the  
4 equivalent shipboard credit card) linked to PRINCESS.  
5

6 46. PRINCESS is in the business of providing medical care. Like other  
7 amenities offered aboard its vessels, PRINCESS also offers to passengers modern  
8 medical facilities onboard its ships for profit. *See, Franza v. Royal Caribbean*  
9 *Cruises, Ltd.*, 772 F.3d 1225, 1244 n. 14 (11<sup>th</sup> Cir. 2014)  
10

11 47. On or about January 22, 2019, Defendant, PRINCESS, employed  
12 medical personnel aboard the subject vessel and shoreside as ship's doctor(s) and  
13 ship's nurse(s).  
14

15 48. At all times material hereto, Defendant, PRINCESS' doctor(s) and  
16 nurse(s), shipboard and shoreside, were the agents, apparent agents, servants, and/or  
17 employees of Defendant, PRINCESS.  
18

19 49. At all times material hereto, Defendant, PRINCESS' doctor(s) and  
20 nurse(s) were subject to the control and/or right to control by Defendant,  
21 PRINCESS.  
22

23 50. At all times material hereto, Defendant, PRINCESS' doctor(s) and  
24 nurse(s) were acting within the scope of their employment and/or agency, to which  
25 Defendant, PRINCESS was the principal.  
26

27 51. At all times material hereto, Defendant, PRINCESS, acknowledged that  
28



1 its doctor(s) and nurse(s) would act on Defendant, PRINCESS' behalf, and all  
2 Defendant, PRINCESS' doctor(s) and nurse(s) accepted the undertaking.

3  
4 52. At all times material hereto Defendant, PRINCESS, owned, operated,  
5 managed, maintained and/or controlled the medical department onboard the subject  
6 vessel.

7  
8 53. At all times material hereto, Defendant, PRINCESS, owned, operated,  
9 managed, maintained and/or controlled the medical equipment in the ship's medical  
10 facility aboard the subject vessel.

11  
12 54. At all times material hereto, Defendant, PRINCESS, had the ability to  
13 monitor and control each and every action and/or inaction taken or not taken by any  
14 person (including its doctor(s) and nurse(s)) working in the medical department via  
15 telephone, videoconference, Skype or otherwise. This technology is generally  
16 referred to as "Face to Face Telemedicine." Such modern means of communication  
17 make the location of the cruise ship effectively irrelevant and allows Defendant,  
18 PRINCESS to directly control the medical care its doctors and nurses provide to  
19 passengers on the ship.

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22 55. At all times material hereto, Defendant, PRINCESS' doctor(s) and  
23 nurse(s) were in the regular, full-time employment of the ship, as salaried  
24 member(s) of the crew, subject to the ship's discipline and the master's orders, and  
25 also under the control of Defendant, PRINCESS' shoreside medical department  
26 through modern means of communication such as "Face to Face Telemedicine."  
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1           56. At all times material hereto, Defendant, PRINCESS is vicariously  
2 liable for the acts/omissions of its doctor(s) and nurse(s) shipboard and/or shoreside  
3 based on the following:  
4

- 5           a. They worked in the ship's medical facility aboard the vessel, which was  
6 owned and/or operated by Defendant, PRINCESS; and/or  
7  
8           b. They wore a ship's uniform provided by Defendant, PRINCESS; and/or  
9  
10          c. They wore badges and/or name plates containing the word "PRINCESS"  
11 and/or containing a Defendant, PRINCESS' logo; and/or  
12  
13          d. They represented themselves as the "ship's medical crew" to the Plaintiff;  
14 and/or  
15  
16          e. The Ship's Doctors were called ship's officer(s) by Defendant, PRINCESS,  
17 the ship's officers and the crew; and/or  
18  
19          f. They ate with the ship's crew; and/or  
20  
21          g. They slept in the ship's crew quarters; and/or  
22  
23          h. They were under the commands of the ship's officers and followed all of  
24 the master's rules and regulations; and/or;  
25  
26          i. Their charges for medical treatment and medicine were charged directly to  
27 passenger's "Sail & Sign" account (or the equivalent shipboard credit card)  
28 linked to Defendant, PRINCESS; and/or  
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30          j. They communicated directly with Defendant, PRINCESS (to the captain  
31 and to unknown persons in Defendant, PRINCESS' shore side office)

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while providing treatment to the Plaintiff; and/or

- k. The literature provided by Defendant, PRINCESS and its representatives showed the doctor(s) and/or nurse(s) as crewmembers and employees of Defendant, PRINCESS;
- l. There were Defendant, PRINCESS insignias in various places inside the ship's medical facility where the Defendant, PRINCESS's doctors and nurses worked; and/or
- m. They were employed full-time by Defendant, PRINCESS; and/or
- n. They were paid a salary by Defendant, PRINCESS; and/or
- o. They never provided the Plaintiff with any documentation or notice that they were not employed by Defendant, PRINCESS; and/or
- p. They spoke to the Plaintiff (s) as though they had authority to do so by Defendant, PRINCESS.

57. On or about January 22, 2019, Defendant, PRINCESS' agents and/or employees and/or servants, including the ship and shore-based doctors and/or nurses, breached their duty to provide Plaintiff with reasonable care under the circumstances, and Plaintiff was thereby separately injured by:

- a. Failing to promptly provide Plaintiff with proper and/or adequate medical care and attention; and/or
- b. Failing to timely and properly assess the condition of the Plaintiff; and/or
- c. Failing to timely and properly diagnose Plaintiff's medical condition,

- 1 including the failure to take and/or interpret x-ray imaging studies; and/or
- 2 d. Failing to order appropriate tests and/or interpret same to assess the
- 3 condition of the Plaintiff; and/or
- 4
- 5 e. Failing to properly administer tests performed on the Plaintiff; and/or
- 6
- 7 f. Failing to properly monitor the Plaintiff; and/or
- 8
- 9 g. Failing to properly evaluate and re-evaluate the Plaintiff before releasing
- 10 her from their supervision; and/or
- 11
- 12 h. Failing to promptly obtain consultations with appropriate specialists;
- 13 and/or
- 14
- 15 i. Failing to promptly have Plaintiff seen by a physician; and/or
- 16
- 17 j. Failing to equip the ship with proper and/or working imaging equipment,
- 18 such as x-ray machines;
- 19
- 20 k. Committing a substantial departure from the accepted standards of
- 21 reasonable medical care and treatment for a Defendant, PRINCESS'
- 22 shoreside and shipboard doctors and/or nurses; and/or
- 23
- 24 l. Breaching the prevailing professional standard of care for said health care
- 25 providers, to wit: that level of care, skill and treatment which, in light of all
- 26 relevant surrounding circumstances as recognized as acceptable and
- 27 appropriate by a reasonably prudent similar health care provider.

28 58. At all material times, Defendants had exclusive custody and control of the above-named vessel.



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circumstances.

**Demand for Jury Trial**

Plaintiff, AUDREY HAYES, hereby demands a trial by jury on all claims for relief.

LIPCON MARGULIES ALSINA & WINKLEMAN

DATED: March 4, 2020.

BY: s/ Carol L. Finklehoffe  
CAROL L. FINKLEHOFFE  
*Attorney for Plaintiff*