

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

CASE NO.:

JANE DOE,

Plaintiff,

vs.

NCL (BAHAMAS) LTD.,

Defendant.

_____ /

COMPLAINT AND JURY DEMAND

Plaintiff, JANE DOE¹ (hereinafter, "Plaintiff"), by and through undersigned counsel, hereby sues Defendant, NCL (BAHAMAS) LTD. (hereinafter "Defendant"), and alleges:

JURISDICTION & VENUE

1. This is a sexual assault action in excess of the minimum jurisdictional limit of seventy-five thousand dollars (\$75,000) exclusive of interest, costs and attorney fees.
2. Plaintiff is a citizen of, and domiciled in, the State of Texas.
3. Defendant is a Bermuda corporation with its principal place of business located in Miami, Florida. As such, Defendant is a citizen of Bermuda and the State of Florida for diversity jurisdiction purposes.
4. This Court has diversity subject matter jurisdiction under 28 U.S.C. § 1332 as the parties are completely diverse and the case in controversy exceeds the jurisdictional minimum amount.
5. This Court has personal jurisdiction over the Defendant as:

¹ The name "Jane Doe" is a generic reference to the Plaintiff whose identity should not be public record due to the nature of the Defendant's offenses and the further emotional pain and embarrassment Plaintiff would suffer should her name be revealed in the public record.

- a. Defendant's principal place of business is located within the State of Florida;
 - b. Defendant conducts substantial business within the State of Florida; and,
 - c. Defendant subjects itself to the jurisdiction of this Court by issuing a ticket contract requiring the subject dispute be litigated before this Court.
6. Venue is proper as the subject ticket contract provides that this dispute be litigated before this Court.

GENERAL ALLEGATIONS

7. The incident which is the subject of this action occurred on or about April 11, 2011 aboard the *NORWEGIAN SUN* (hereinafter referred to as, "The Vessel") while The Vessel was in navigable waters.
8. At the time of the incident, Plaintiff occupied the status of a passenger.
9. The Vessel was owned and/or operated and/or maintained by Defendant.
10. On the date alleged in paragraph 7 above, Plaintiff participated in a "Pub Crawl" event sponsored, organized and run by the Defendant as part of The Vessel's onboard activities.
11. During the "Pub Crawl" event, Plaintiff and other passengers were taken to multiple areas of The Vessel stopping briefly to consume alcoholic beverages dispensed by Defendant's employee crewmembers. The crewmembers encouraged Plaintiff and the other passengers to drink the alcoholic beverages offered at each stop. At the third stop, Plaintiff sat the drink given her at the previous stop on the bar to exchange for the third drink. The crewmember gave her back the drink stating "no wastee, no wastee" and insisted she drink.

12. Given the short period of time between drinks, Plaintiff as well as other passengers participating in the “Pub Crawl” became intoxicated.

13. Defendant made no effort to discontinue serving Plaintiff or the other passengers alcohol despite displaying signs of intoxication nor did Defendant offer to escort Plaintiff to her cabin.

14. After the “Pub Crawl” event was concluded, Plaintiff went to one of The Vessel’s public ladies’ restrooms and occupied a toilet stall. Shortly thereafter, a man entered the stall and against Plaintiff’s will sexually assaulted her. None of the Defendant’s employees intervened during the sexual assault.

COUNT I
(STRICT LIABILITY)

15. Plaintiff re-alleges all allegations pled in paragraphs 1 through 14 above as if alleged fully herein.

16. Defendant is strictly liable for the physical attacks and sexual assaults of its crewmember/employees against passengers.

17. The person who sexually assaulted Plaintiff was an employee of the Defendant and/or crewmember of The Vessel.

18. The sexual assault, proximately caused Plaintiff to suffer emotional distress, mental anguish, physical and psychological pain and suffering, medical expenses and loss of enjoyment of life. These damages are continuing and permanent. Plaintiff has suffered these damages in the past and will continue to suffer them in the future.

WHEREFORE, the Plaintiff demands judgment against the Defendant for all compensatory damages awardable by law together with all taxable court costs and prejudgment interest.

COUNT II
(NEGLIGENCE)²

19. Plaintiff re-alleges all allegations pled in paragraphs 1 through 14 above as if alleged fully herein.

20. The person who sexually assaulted Plaintiff was a fellow passenger.

21. Defendant owed Plaintiff the duty of reasonable care under the circumstances for her safety and the duty to warn Plaintiff of all dangers it knew or should have known.

22. Further, Defendant owed the duty to protect Plaintiff from dangers caused by herself and/or fellow passengers of which it knew or should have known to exist or could be reasonably apprehended.

23. Defendant was negligent as it breached its duty by:

- a. Creating an unsafe condition of feeding high amounts of alcohol to its passengers at Defendant sponsored shipboard events;
- b. Creating an unsafe condition by having crewmembers encourage passengers to ingest high amounts of alcohol at Defendant sponsored shipboard events to the point where Plaintiff and other passengers became intoxicated;
- c. Feeding Plaintiff so much alcohol to the point where she could not defend herself from an attack;
- d. Failing to take reasonable care in protecting Plaintiff from passengers who became intoxicated at The Vessel's bars and lounges;

² This count is alleged in the alternative should it be discovered that the attacker was a fellow passenger. Currently Defendant refuses to produce closed circuit television video which would assist in indentifying the perpetrator of the sexual assault.

- e. Failing to sufficiently monitor intoxicated passengers and intervene when they posed a danger to other passengers including Plaintiff;
- f. Failing to warn Plaintiff that she may be target of a physical attack and/or sexual assault for participating in a Defendant sponsored event; and,
- g. Failing to properly maintain the area in a safe and reasonable manner.

24. The Defendant:

- a. Had actual knowledge of the subject danger; and/or
- b. Had constructive knowledge of the subject danger as it existed for a sufficient length of time so that Defendant should have known of it by the exercise of ordinary care.

25. The above alleged negligence proximately caused Plaintiff to suffer emotional distress, mental anguish, physical and psychological pain and suffering, medical expenses, and loss of enjoyment of life. These damages are continuing and permanent. Plaintiff has suffered these damages in the past and will continue to suffer them in the future.

26. The attack and injuries resulting therefrom could have been prevented.

WHEREFORE, the Plaintiff demands judgment against Defendant for all compensatory damages awardable by law together with all taxable court costs and prejudgment interest.

* * *

JURY DEMAND

Plaintiff demands trial by jury on all issues so triable.

Submitted this 20th Day of June, 2011.

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