

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. _____

MARTHA ANN HARNESS,

Plaintiff,

vs.

ROYAL CARIBBEAN CRUISES LTD.,
a foreign corporation,

Defendant.

_____/

COMPLAINT AND DEMAND FOR JURY TRIAL

COMES NOW the Plaintiff, MARTHA ANN HARNESS, individually, and pursuant to the Federal Rules of Civil Procedure, hereby files her Complaint to sue the Defendant, ROYAL CARIBBEAN CRUISES, LTD., a foreign corporation, and as grounds therefore states as follows:

GENERAL ALLEGATIONS

1. That is an action for negligence arising out of an injury occurring on the cruise ship M/V FREEDOM OF THE SEAS which was owned and operated by Defendant ROYAL CARIBBEAN CRUISES, LTD. (hereinafter "RCCL"), a Liberian corporation with its principal place of business in Miami-Dade County, Florida.

2. Pursuant to 28 U.S.C. §1333, this Court has original jurisdiction over this matter as this lawsuit arises out of a maritime and admiralty claim and is controlled by the general maritime law of the United States.

3. Venue in this Court is proper pursuant to the passenger ticket contract issued by Defendant RCCL containing a forum selection clause which requires all disputes and matters arising out of and in connection with the subject cruise be litigated in the United States District Court for the Southern District of Florida, Miami Division.

4. This Court has personal jurisdiction over RCCL because Defendant has, at all times relevant to this cause of action, through its agents, officers, distributors, and/or representatives:

a) Operated, conducted, engaged in, and/or carried on a business venture in Florida and has an office in Florida;

b) Used, possessed, or held a mortgage or other lien on real property within Florida; and/or

c) Engaged in substantial and not isolated activities within Florida by maintaining stores, offices, employees, distributors, and/or registered agents in Florida, selling products in Florida, advertising products in Florida, or entering into contracts in Florida.

d) Additionally, pursuant to its travel document, Defendant submits itself to the jurisdiction of this Court.

5. That all times material hereto the Defendant, RCCL, was and is a foreign corporation, with its principal place of business in Miami-Dade County, Florida, and was and is a business entity and common carrier engaged in the shipping and passenger cruise business.

6. At all times hereinafter mentioned, the Plaintiff, MARTHA ANN HARNESS, was a citizen of the United States and was and is a resident of Hillsborough County, State of Florida, and was and is *sui juris*.

7. That on or about May 10, 2011 the Plaintiff, MARTHA ANN HARNESS, was lawfully and properly a fare-paying passenger and business invitee on board the vessel FREEDOM OF THE SEAS.

8. At all material times hereto, Defendant owed a duty to Plaintiff of using reasonable care under the circumstances in maintaining the premises of the M/V FREEDOM OF THE SEAS in a reasonably safe condition and operating the vessel in a reasonably safe manner.

9. Plaintiff was walking in a normal manner in the M/V FREEDOM OF THE SEAS' passenger walkways when she tripped and fell over a dangerous tripping hazard. The hazard was a raised molding located between a carpeted and non-carpeted surface which was apparently designed to hold the carpet in place, but which in fact created a tripping hazard.

10. As a result of the uneven and dangerous tripping hazard, Plaintiff fractured her hip, elbow, and other parts of her body and mind as well.

11. The accident occurred due to the unsafe design and condition of the walkway and deck, and the negligent failure to properly maintain and repair the area, and Defendant's negligent failure to correct the dangerous condition and/or warn Plaintiff of the aforementioned conditions.

12. Defendant knew or should have known of the dangerous and unsafe conditions alleged above, and failed to take reasonable steps to correct the hazards or warn Plaintiff of the hazards.

13. As a direct and proximate result of Defendant's negligence, Plaintiff sustained injuries to her body and mind.

14. All pre-conditions to this action have been met or waived.

COUNT I - NEGLIGENCE

15. Plaintiff repeats and realleges paragraphs 1 through 14 as if set forth herein *in extenso* and further alleges:

16. On or about May 10, 2011, and continuing thereafter, Defendant breached the duty owed to Plaintiff by committing one or more of the following acts and/or was negligent in the operation, maintenance or control of the M/V FREEDOM OF THE SEAS in the following respects:

a. Failing to exercise reasonable care for the safety of its passengers, including Plaintiff, and creating a dangerous condition in and around the walkway and deck;

b. Failing to provide a reasonable deck surface for passengers, reasonably designed for the safety of its passengers;

c. Failing to properly maintain the walkway and deck for use by passengers, including Plaintiff;

d. Failing to properly inspect the walkway and deck prior to the incident in question;

e. Failing to properly test, clean, and/or repair the walkway and deck prior to the incident in question;

f. Failing to warn passengers, including Plaintiff, whom Defendant knew or should have known would be using the walkway and deck of the dangerous condition which existed when passengers used those areas of the ship;

g. Failing to use appropriate materials in and about the walkway and deck;

h. Allowing a dangerous condition to exist notwithstanding prior incidents involving similar accidents aboard the M/V FREEDOM OF THE SEAS and other vessels in its fleet of cruise ships;

i. Failing to adequately investigate prior and subsequent incidents involving similar circumstances on the M/V FREEDOM OF THE SEAS and other vessels in its fleet of cruise ships;

j. Failing to post adequate warnings to passengers of the dangerous and unsafe condition in and about the walkway and deck of the M/S LIBERTY OF THE SEAS and other vessels in its fleet of cruise ships;

k. Failing to provide a carpet molding which was properly designed and functioning;

l. Failing to appropriately mark the carpet molding; and

m. Other acts of fault and negligence which will be proven at the trial of this matter.

17. Said unreasonably dangerous conditions existed for a sufficient amount of time that Defendant knew or should have known of said dangerous conditions and should have taken steps to correct the unsafe conditions in a timely manner. Defendant was on actual or constructive notice of the presence of said conditions.

18. Defendant was also on constructive notice of the unsafe condition in that it chose an unsafe design of the area in question, including a design with a raised carpet molding, thereby causing a tripping hazard where passengers and business invitees were expected to walk. Said negligent selection and design make Defendant liable for actually creating the unreasonably dangerous condition which caused Plaintiff's injuries.

19. Further, Defendant chose a dangerous design in failing to place a flat or even carpet molding, as opposed to a raised molding, in the area of the walkway where passengers are expected to walk. Said negligent selection and design of the area in question makes Defendant liable for actually creating the dangerous condition which caused Plaintiffs' injuries.

20. RCCL, at all material times, also had a non-delegable duty as a ship operator to comply with the International Safety Management (ISM) Code, which requires vessel operators to establish safeguards against identified risks aboard vessels, such as tripping and slipping hazards, including an unreasonably dangerous floor that lacks a sufficient coefficient of friction to prevent serious injury to invitees when wet.

21. Upon information and belief (and based on the unreasonably dangerous condition of the raised carpet molding in a high traffic area), Plaintiff states that prior to the incident involving the Plaintiff, several passengers had tripped and fallen, or experienced "near misses", on the same or similar raised carpet molding, or on similar floors throughout RCCL's entire fleet of vessels, and Defendant and/or its crew members, and/or its personnel were well aware of this historical information.

22. RCCL, at all material times, breached its aforementioned non-delegable duties by failing to inspect or maintain the subject raised carpet molding, and/or by

selecting a flooring that was unreasonably dangerous, which constituted an unreasonable risk of harm to its passengers, including the Plaintiff.

23. Defendant's negligence, as described above, caused the injuries Plaintiff complains of in this lawsuit.

24. The conduct of Defendant, as described above, directly and proximately caused the injuries and damages to Plaintiff, as follows:

a. Plaintiff has suffered and will continue to suffer bodily injury, physical pain and suffering, mental anguish, disability, disfigurement, physical impairment, inconvenience, loss of capacity for the enjoyment of life, lost wages, and diminishment of earning capacity;

b. Plaintiff has incurred medical, hospital, nursing, therapy and pharmaceutical expenses and will continue to incur such expenses as long as her condition continues; and

c. Plaintiff has suffered an aggravation of a pre-existing condition.

25. Defendant is at fault for causing Plaintiff's injuries and is liable to her for the above described damages which are continuing and/or permanent in nature.

26. Plaintiff lost the value of the cruise, as well as attendant travel and airfare expenses and related costs.

27. All conditions precedent to bringing this action have been satisfied.

28. Plaintiff demands trial by jury.

WHEREFORE, Plaintiff, MARTHA ANN HARNESS, alleges negligence of Defendant, ROYAL CARIBBEAN CRUISES, LTD., a foreign corporation, and prays that judgment be entered in Plaintiff's favor and against Defendant, for damages, costs,

interest, pre-judgment interest and for all such other relief to which Plaintiff may be entitled by virtue of these proceedings.

Dated this 26th day of July, 2011.

Respectfully submitted,

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