

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 16-21762-CIV-ALTONAGA/O'SULLIVAN

RONNA JOHNSON,

Plaintiff,

v.

NCL (BAHAMAS) LTD., a Bermuda
corporation d/b/a NORWEGIAN CRUISE LINES,

Defendant.

/

ORDER

THIS MATTER is before the Court following an informal discovery conference held before the undersigned on February 28, 2017 regarding the plaintiff's renewed request for sanctions under Rule 37. Fed. R. Civ. P. 37(b)(2)(A)(I) provides the following:

(b) Failure to Comply with a Court Order.**(2) Sanctions Sought in the District Where the Action Is Pending.**

(A) For Not Obeying a Discovery Order. If a party or a party's officer, director, or managing agent--or a witness designated under Rule 30(b)(6) or 31(a)(4)--fails to obey an order to provide or permit discovery, including an order under Rule 26(f), 35, or 37(a), the court where the action is pending may issue further just orders. They may include the following:

(I) directing that the matters embraced in the order or other designated facts be taken as established for purposes of the action, as the prevailing party claims;

Fed. R. Civ. P. 37

Having heard from both parties, having determined that there were failures by the defendant to comply with this Court's discovery Orders, and the Court, as a result of the defendant's failures, being permitted under Rule 37 to designate facts to be taken as established, it is

ORDERED AND ADJUDGED that the subject prior incidents involving liquid on the floor are established as "substantially similar" to the plaintiff's slip and fall for purposes of determining their relevancy to the issues of notice and foreseeability. It is further

ORDERED AND ADJUDGED that the seven incidents as to which the security log reports indicate that the deck surface was wet or moist at the time of the slip and fall are deemed substantially similar to the plaintiff's slip and fall. It is further

ORDERED AND ADJUDGED that the six incidents as to which the defendant still has not produced any information are deemed substantially similar incidents, unless the defendant produces, within the time limit set in the discovery Order dated the same date as this Order, supplemental information demonstrating in detail their lack of similarity.

DONE AND ORDERED, in Chambers, at Miami, Florida, this 7th day of March, 2017.



JOHN J. O'SULLIVAN
UNITED STATES MAGISTRATE JUDGE

Copies provided to:
United States District Judge Altonaga
All counsel of record