

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. _____

RACHEL MORLAN,

Plaintiff,

v.

CARNIVAL CORPORATION.

Defendant.

_____ /

COMPLAINT

Plaintiff sues Defendant and alleges:

PRELIMINARY ALLEGATIONS

1. The Plaintiff, RACHEL MORLAN, is a citizen of Oklahoma.
2. Defendant, CARNIVAL CORPORATION, is a foreign entity incorporated under the laws of Panama.
3. The matter in controversy exceeds, exclusive of interests and costs, the sum specified by 28 U.S.C. § 1332. In the alternative, if diversity jurisdiction does not apply, then this matter falls under the admiralty and maritime jurisdiction of this Court.
4. At all times material hereto, Defendant, personally or through an agent:
 - a. Operated, conducted, engaged in or carried on a business venture in this state and/or county or had an office or agency in this state and/or county;
 - b. Was engaged in substantial activity within this state;

- 1 -

L I P C O N , M A R G U L I E S , A L S I N A & W I N K L E M A N , P . A . .

- c. Operated vessels in the waters of this state;
 - d. Committed one or more of the acts stated in Florida Statutes §§ 48.081, 48.181 or 48.193;
 - e. The acts of Defendant set out in this Complaint occurred in whole or in part in this county and/or state.
 - f. Defendant was engaged in the business of providing to the public and to Plaintiff in particular, for compensation, vacation cruises aboard the vessel, *Carnival Ecstasy*.
5. Defendant is subject to the jurisdiction of the courts of this state.
6. The causes of action asserted in this Complaint arise under the General Maritime Law of the United States.

GENERAL ALLEGATIONS

7. At all times material hereto, Defendant owned, operated, managed, maintained and/or controlled the vessel, *Carnival Ecstasy*.
8. At all times material hereto, Defendant had exclusive custody and control of the vessel, *Carnival Ecstasy*.
9. On or about September 10, 2019, Plaintiff was a paying passenger aboard *Carnival Ecstasy*, which was in navigable waters.
10. On or about September 10, 2019 Plaintiff was severely injured when she slipped and fell on an unreasonably wet, slippery, slick, worn out, hazardous, and/or dangerous flooring surface when descending an exterior spiral stair case near the waterslide area of the vessel.
11. The unreasonably wet, slippery, slick, worn out, hazardous nature and/or dangerous of the flooring surface was not open and obvious and the Plaintiff had no way of knowing the existence of the hazardous condition.

COUNT I – NEGLIGENT FAILURE TO WARN AGAINST DEFENDANT

Plaintiff re-alleges, adopts and incorporates by reference the allegations in paragraphs one (1) through eleven (11) as though alleged originally herein.

12. At all times material hereto, it was the duty of Defendant to provide Plaintiff with reasonable care under the circumstances.

13. At all times material hereto, it was the duty of Defendant to warn passengers (like Plaintiff) of dangers that were known, or reasonably should have been known, to Defendant in places where passengers (like Plaintiff) are invited to or may reasonably be expected to visit.

14. On or about September 10, 2019, the Plaintiff was on an exterior spiral staircase on Deck 11 leading down to a waterslide area of Defendant's vessel, which is a place that Plaintiff was invited to by Defendant and a place Defendant reasonably expected Plaintiff to be in during the cruise.

15. On or about September 10, 2019, Defendant and/or its agents, servants and/or employees breached its duty to warn the Plaintiff through the following acts and/or omissions:

- a. Failure to warn the Plaintiff of the unreasonably wet, slippery, slick, worn out, hazardous and/or dangerous condition of the flooring in the subject area; and/or
- b. Failure to adequately warn the Plaintiff of the poorly maintained flooring surface used on the subject area; and/or
- c. Failure to warn the Plaintiff of the risks and/or dangers associated with the unreasonably wet, slippery, slick, worn out and/or hazardous nature of the flooring surface of the subject area, including but not limited to hazardous co-efficiency of friction in light of the wet, slippery, slick, worn out and/or hazardous condition of the flooring surface; and/or

- d. Failure to warn passengers and the Plaintiff of other slip and fall accidents previously occurring in same area, same deck and/or same flooring surface.

16. The above acts and/or omissions caused and/or contributed to the Plaintiff being severely injured because Plaintiff would not have walked on the unreasonably wet, slippery, slick, worn out, hazardous and/or dangerous floor had Defendant and/or its agents, servants and/or employees adequately warned and/or communicated the foregoing to the Plaintiff.

17. At all times material hereto, the surface of the subject area was unreasonably wet, slippery, slick, worn out, hazardous and/or unreasonably dangerous.

18. Defendant knew of the foregoing conditions causing the Plaintiff's accident and did not correct them. Defendant's knowledge of the dangerous condition(s) was specifically acquired through (a) its cleaning and/or inspection of the subject floor and/or area prior to this incident, and/or (b) prior incidents causing personal injury to Defendant's passengers involving the same or similar flooring aboard on its vessels, including the *Carnival Ecstasy*. Alternatively, the foregoing conditions existed for a sufficient length of time so that Defendant, in the exercise of reasonable care under the circumstances, should have learned of them and corrected them.

19. As a direct and proximate result of the negligence of Defendant, Plaintiff was injured about Plaintiff's body and extremities, suffered physical pain, mental anguish, loss of enjoyment of life, lost wages, disability, disfigurement, aggravation of any previously existing conditions therefrom, incurred medical expenses in the care and treatment of Plaintiff's injuries, suffered physical handicap. The injuries are permanent or continuing in nature, and Plaintiff will suffer the losses and impairments in the future. In addition, Plaintiff lost the benefit of Plaintiff's vacation, cruise, and transportation costs.

WHEREFORE, the Plaintiff demands judgment for all damages recoverable under the law against Defendant and requests trial with advisory jury.

COUNT II – NEGLIGENT FAILURE TO MAINTAIN AGAINST DEFENDANT

Plaintiff re-alleges, adopts and incorporates by reference the allegations in paragraphs one (1) through eleven (11) as though alleged originally herein.

20. At all times material hereto, it was the duty of Defendant to provide Plaintiff with reasonable care under the circumstances.

21. At all times material hereto, it was the duty of Defendant to maintain the subject flooring near the staircase and waterslide area in a reasonably safe condition.

22. On or about September 10, 2019, Defendant and/or its agents, servants and/or employees breached its duty through the following acts and/or omissions:

- a. Failure to adequately and regularly inspect the subject flooring near the staircase and waterslide area, to determine whether the subject flooring was unreasonably wet, slippery, slick, worn out, hazardous in nature and/or dangerous; and/or
- b. Failure to maintain the subject flooring surface near the waterslides where Plaintiff fell in a reasonably safe condition in light of the anticipated use; and/or
- c. Failure to maintain the subject floor in a clean and dry condition; and/or
- d. Failure to maintain the subject flooring with reasonable co-efficient of friction and ensure it was not worn out; and/or
- e. Failure to maintain the surface of the floor in a reasonably safe condition if/when the subject area floor became wet, or too slippery, including, but not limited to, closing off the subject area that was dangerously slippery, and/or placing signage to warn passengers of hazardous areas; and/or

f. Failure to maintain anti-slip/slip-resistance material, mats and/or anti-slip/slip-resistance tape on the subject flooring surface.

23. The above acts and/or omissions caused and/or contributed to the Plaintiff being severely injured because Plaintiff's incident would not have occurred but for Defendant's failure to adequately inspect and/or maintain the subject area.

24. At all times material hereto, the surface of the subject area was unreasonably wet, slippery, slick, worn out, poorly maintained, hazardous and/or unreasonably dangerous.

25. Defendant knew of the foregoing conditions causing the Plaintiff's accident and did not correct them. Defendant's knowledge of the dangerous condition(s) was specifically acquired through (a) its cleaning and/or inspection of the subject floor and/or area prior to this incident, and/or (b) prior incidents causing personal injury to Defendant's passengers involving the same or similar flooring aboard on its vessels, including the *Carnival Ecstasy*. Alternatively, the foregoing conditions existed for a sufficient length of time so that Defendant, in the exercise of reasonable care under the circumstances, should have learned of them and corrected them.

26. As a direct and proximate result of the negligence of Defendant, Plaintiff was injured about Plaintiff's body and extremities, suffered physical pain, mental anguish, loss of enjoyment of life, lost wages, disability, disfigurement, aggravation of any previously existing conditions therefrom, incurred medical expenses in the care and treatment of Plaintiff's injuries, and suffered physical handicap. The injuries are permanent or continuing in nature, and Plaintiff will suffer the losses and impairments in the future. In addition, Plaintiff lost the benefit of Plaintiff's vacation, cruise, and transportation costs. Further, the injuries resulting from her fall are permanent or continuing in nature and Plaintiff will suffer these losses and impairments into the future.

WHEREFORE, the Plaintiff demands judgment for all damages recoverable under the law against Defendant and requests trial with advisory jury.

COUNT III – GENERAL NEGLIGENCE AGAINST DEFENDANT

Plaintiff re-alleges, adopts and incorporates by reference the allegations in paragraphs one (1) through eleven (11) as though alleged originally herein.

27. At all times material hereto, it was the duty of Defendant to provide Plaintiff with reasonable care under the circumstances.

28. On or about September 10, 2019, Defendant and/or its agents, servants and/or employees breached its duty to provide Plaintiff with reasonable care under the circumstances through the following acts and/or omissions:

- a. Failure to adequately and regularly monitor the subject area to maintain it free of wet, slippery, slick, worn out, hazardous and/or dangerous conditions; and/or
- b. Failure to regularly and adequately clean the subject area; and/or
- c. Failing to follow the manufacturer of the subject flooring surface instructions for cleaning and/or maintaining the surface; and/or
- d. Failure to close off and/or place warning signs on or around the wet and slippery areas of the subject area; and/or
- e. Failure to close off and/or place warning signs on or around area that was worn out and lacked proper co-efficient of friction; and/or
- f. Failure to promulgate and/or enforce adequate policies and procedures to ensure that the subject area is adequately and regularly inspected, monitored, cleaned and maintained free of wet, slippery, slick, worn out, hazardous and/or dangerous

- conditions; and/or
- g. Failure to promulgate and/or enforce adequate policies and procedures to ensure that warnings signs are placed on or around wet, slippery, slick, worn out, hazardous and/or dangerous areas and/or that such wet, slippery, slick, worn out, hazardous and/or dangerous areas are closed off; and/or
 - h. Failure to analyze prior slip-and-fall accidents aboard Defendant's vessels occurring in the same area and/or type of flooring surface so as to remedy such hazardous conditions; and/or
 - i. Failure to correct hazardous conditions following other slip and fall accidents in the same area and/or type of flooring surface; and/or
 - j. Failure to utilize a reasonably safe flooring surface in light of the anticipated traffic and anticipated purpose of the area; and/or
 - k. Failure to retrofit flooring surface in light of the anticipated traffic and anticipated purpose of the area; and/or
 - l. Failure to test and/or adequately evaluate flooring surface in light of the anticipated traffic and anticipated purpose of the area; and/or
 - m. Failure to have a non-slip or non-skid flooring surface on the subject area; and/or
 - n. Failure to place rubber mats or apply a non-slip or non-skid substance for the flooring surface on or around the subject area; and/or
 - o. Failure to adequately test the coefficient of friction and slip resistance of the subject flooring surface before opening it up to passengers (like Plaintiff); and/or
 - p. Negligently designing, selecting, and/or approving the flooring, and lighting scheme; and/or

q. Failure to instruct passengers and the Plaintiff concerning proper footwear when walking on the subject flooring surface and/or the subject area.

29. The above acts and/or omissions caused and/or contributed to the Plaintiff being severely injured because Plaintiff's incident would not have occurred but for such acts and/or omissions.

30. At all times material hereto, the surface of the subject area was unreasonably wet, slippery, slick, worn out, hazardous and/or unreasonably dangerous.

31. Defendant knew of the foregoing conditions causing the Plaintiff's accident and did not correct them. Defendant's knowledge of the dangerous condition(s) was specifically acquired through (a) its cleaning and/or inspection of the subject floor and/or area prior to this incident, and/or (b) prior incidents causing personal injury to Defendant's passengers involving the same or similar flooring aboard on its vessels, including the *Carnival Ecstasy*. Alternatively, the foregoing conditions existed for a sufficient length of time so that Defendant, in the exercise of reasonable care under the circumstances, should have learned of them and corrected them.

32. As a direct and proximate result of the negligence of Defendant, Plaintiff was injured about Plaintiff's body and extremities, suffered physical pain, mental anguish, loss of enjoyment of life, disability, disfigurement, aggravation of any previously existing conditions therefrom, incurred medical expenses in the care and treatment of Plaintiff's injuries, suffered physical handicap, lost wages and Plaintiff's working ability has been impaired. The injuries are permanent or continuing in nature, and Plaintiff will suffer the losses and impairments in the future. In addition, Plaintiff lost the benefit of Plaintiff's vacation, cruise, and transportation costs. Further, the injuries resulting from her fall are permanent or continuing in nature and Plaintiff will suffer these losses and impairments into the future.

WHEREFORE, the Plaintiff demands judgment for all damages recoverable under the law against Defendant and requests trial with advisory jury.

Respectfully submitted,

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