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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICHAEL A. MECHLING, Personal
Representative of the estate of DIANA L.
MECHLING, an Ohio individual; and
MICHAEL A. MECHLING, an Ohio
individual.

Plaintiffs,

v.

HOLLAND AMERICA LINE, INC., a
Washington corporation; HAL NEDERLAND
N.V., a Curacao corporation; HAL N.V., a
Curacao corporation; and CRUISE
SOLUTIONS BELIZE, LTD, a Belize entity;
Defendants.

IN ADMIRALTY AND AT LAW

Case No.:

COMPLAINT

COMES NOW Plaintiffs Michael A. Mechling as Personal Representative of the
estate of Diana L. Mechling and Michael A. Mechling, personally, to aver and state as
follows:

PARTIES TO THE ACTION

1. Plaintiff Michael Mechling, Personal Representative of the estate of Diana
Mechling, is now, and was at all times mentioned in this complaint, an individual residing
in the state of Ohio.

1 2. Plaintiff Michael Mechling is now, and was at all times mentioned in this
2 complaint, an individual residing in the state of Ohio.

3 3. Defendant Holland America Line, Inc. (“HAL”) is a Washington corporation
4 with its principle place of business in Seattle, Washington, and acts as agent of the owner
5 of the M/S Ryndam cruise ship.

6 4. Defendant HAL Nederland N.V. is the owner of the m/s Ryndam cruise ship
7 and is a foreign corporation registered under the laws of Curacao.

8 5. Defendant HAL N.V. is the charterer of the m/s Ryndam and is a foreign
9 corporation registered under the laws of Curacao.

10 6. Defendant Cruise Solutions Belize, Ltd. (“Cruise Solutions”) is a foreign
11 corporation registered under the laws of Belize with its principal place of business in
12 Belize.

13 7. At all times relevant and material to this complaint, each of the Defendants
14 were agents, employees, and/or representatives of each other and acted within the course
15 and scope of their employment and/or agency and/or acted for a common purpose or as
16 part of a joint venture.

17 8. At all times relevant and material to this complaint, Defendants acted
18 through their agents, employees, and/or representatives, who in turn acted within the
19 scope of their employment and/or agency.

20 9. At all times relevant and material to this complaint, one or more of the
21 Defendants were bound by a contract(s) or agreement(s) with each other and/or with
22 other parties, requiring Defendants, either on their own behalf and/or on behalf of some
23 or all of the other Defendants, to maintain, operate, and otherwise control the cruise
24 excursions in a ways that would be safe for use by passengers and invitees.

25 **JURISDICTION AND VENUE**

26 10. This court has jurisdiction under 28 U.S.C. §§ 1332 and 1333, 46 U.S.C. §
30302, the Death on the High Seas Act (“DOHSA”), and/or under the general maritime

1 law, and under the contract(s) of carriage under which the claims are brought.
2 Jurisdiction is thus based on the court's admiralty jurisdiction as well as diversity of
3 citizenship. The amount in controversy exceeds \$75,000. Plaintiffs are citizens of Ohio,
4 Defendant HAL is a citizen of Washington, Defendants HAL Nederland N.V. and HAL
5 N.V. are citizens of Curacao, and Defendant Cruise Solutions is a citizen of Belize.

6 11. This Court has personal jurisdiction over Defendants HAL, HAL Nederland
7 N.V., and HAL N.V. based on their continuous and systematic business contacts with the
8 state of Washington, which are sufficient to establish the Court's general personal
9 jurisdiction over these Defendants.

10 12. This Court has personal jurisdiction over Defendant Cruise Solutions
11 because Defendant Cruise Solution's contacts with the state satisfy minimum contacts
12 requirements, and because asserting specific personal jurisdiction over Defendant Cruise
13 Solutions would not violate federal due process. Defendant Cruise Solutions availed itself
14 of the benefits of conducting business within the state of Washington by entering into
15 cruise excursion contracts with Washington-based Defendant HAL. Defendant Cruise
16 Solutions knew it was contracting with HAL, a Washington corporation whose cruise
17 contract requires that all suits by injured persons or personal representatives of
18 passengers fatally injured be brought in the United States District Court in Seattle. It is
19 thus foreseeable it would be haled into court in Washington based on its role as an
20 excursion company providing services to Defendant HAL, especially in light of the
21 volume of excursion tours it provides for Defendant HAL's customers.

22 13. Venue is proper in this Judicial District under 28 U.S.C. § 1391(c) for claims
23 against Defendants because Defendant HAL is a corporation that resides in this judicial
24 district and because Defendant HAL included a forum selection clause in its cruise
25 contract naming this Judicial District as the proper forum for resolving disputes.
26

1 14. Venue is also proper in this Judicial District under 28 U.S.C. § 1391(c) for
2 claims against Defendants HAL Nederland N.V., HAL N.V., and Cruise Solutions because
3 these Defendants are subject to personal jurisdiction in this Judicial District.

4 **GENERAL BACKGROUND**

5 15. On October 15, 2010 Michael and Diana Mechling, husband and wife, (“the
6 Mechlings”) purchased tickets for a fourteen-day cruise from Defendant HAL. The tickets
7 were purchased through a third-party travel agent, Cruise Club of America. The
8 underlying price of the tickets was \$1,882.60, which included a \$200 deposit. The cruise
9 ship (the m/s Ryndam) was scheduled to depart from Tampa, Florida on January 23, 2011,
10 and return to Tampa, Florida on February 6, 2011. The ship was to travel throughout the
11 Caribbean and scheduled to stop at a number of port cities for cruise-related excursions.

12 16. In addition to cruise tickets, the Mechlings also purchased a number of port
13 city excursions, which cost a total of \$480. Defendant HAL sold these excursions directly
14 to the Mechlings on December 6, 2010.

15 17. Among the excursions the Mechlings purchased from HAL was a
16 snorkeling trip called the Goff’s Caye Snorkeling Tour in Belize City, Belize that was
17 operated by Defendant Cruise Solutions. The excursion was set to take place on February
18 2, 2011.

19 18. On January 23, 2011, the Mechlings departed from Tampa, Florida on the
20 m/s Ryndam operated by HAL.

21 19. On February 2, 2011, at around 12 pm, the Mechlings participated in the
22 Goff’s Caye Snorkeling Tour run by Defendant Cruise Solutions. After arriving at the
23 tourism village in Belize City, Belize, the excursion participants departed to Goff’s Caye
24 on a boat called the “Reef Rocket.” The Reef Rocket was manned and operated by
25 employees and/or agents of Cruise Solutions including the boat’s captain and excursion
26 guides.

1 20. When the Reef Rocket arrived at Goff's Caye, there were two other boats
2 tied to the Goff's Caye pier whose participants were snorkeling in the water off of the
3 island.

4 21. The Reef Rocket's excursion guides determined that it was too windy to
5 snorkel off the island, instead directing that snorkeling take place off the boat. The guides
6 distributed the snorkeling equipment before the boat departed (including flotation vests
7 that were faulty and had broken straps). The boat then travelled two to three minutes to
8 the snorkeling location. At this time, the seas were rough.

9 22. At about 1:30 pm the boat arrived at a snorkeling location chosen by the
10 lead guide. At least two guides got into the water and instructed the excursion
11 participants on how to enter the water from the boat. About three excursion participants
12 had entered the water prior to Diana Mechling. Diana Mechling entered the water in a
13 manner consistent with the guides' instructions, by lowering herself off the boat's
14 platform into the water. Michael Mechling had not yet gotten into the water.

15 23. At this point, the boat operator shifted the engines into reverse in an
16 attempt to steady the boat. Diana Mechling had just exited the rear platform when the
17 engine was initiated. The start of the engines caused the boat to lurch and Diana
18 Mechling was sucked underneath the boat and directly into the propellers. Michael
19 Mechling realized that he could not see Diana Mechling and began yelling, "Where is my
20 wife?" At this point, the guides assisting the other cruise participants noticed that
21 something, or someone, had gotten sucked under the boat and yelled for the boat
22 operator to cut off the engines. The two guides already in the water attempted to get
23 Diana Mechling out from under the boat, but were unable to do so because her swimsuit
24 was caught on one of the propellers. One of the guides resurfaced and yelled for a knife.
25 It took approximately one minute to find a knife. The guides were then able to free Diana
26 Mechling from the propeller by cutting away her swimsuit. Altogether, Diana Mechling
was submerged beneath the boat for several minutes.

1 24. Diana Mechling was brought back to the surface. The propellers caused a
2 massive laceration extending from the right side of her right thigh up to her buttocks.
3 The cut was so deep that bone was exposed and the impact of the propeller blades
4 fractured her femur. Diana Mechling also suffered laceration to her head.

5 25. The crew eventually lifted Diana Mechling onto the back platform of the
6 Reef Rocket completely nude. After the other excursion participants re-boarded, the boat
7 immediately began its return to Belize City. Throughout the return trip, Diana Mechling
8 was left on the back platform, as Michael Mechling and two guides held her on the
9 platform to keep her from falling back into the water. There was no first aid kit on board
10 the Reef Rocket.

11 26. The trip back to Belize City was conducted at high speed. During the trip,
12 Michael Mechling remained on the back platform with Diana Mechling, cradling her head
13 and attempting to keep her from falling off the platform. The platform was without
14 guardrails and was neither designed nor intended to transport passengers at high speeds.
15 Diana Mechling remained responsive for a portion of the trip, repeatedly saying, "I can't
16 breathe." Michael Mechling suffered grave emotional distress as he huddled on the
17 platform of the speeding boat holding his mortally injured wife and desperately calling for
18 help to save her. Michael Mechling yelled to see if there were any doctors or nurses on
19 board the vessel; no one responded. During the trip back to shore one of the guides
20 dialed "911" and arranged for an ambulance to meet the boat at the Belize City Docks.

21 27. When the boat arrived at the Belize City pier, paramedics boarded the boat
22 and carried Diana Mechling from the boat in a stretcher. She was immediately taken to a
23 local hospital. After about 20 minutes of waiting at the pier, Michael Mechling was
24 transported to the hospital. Upon his arrival at the hospital, doctors informed Michael
25 Mechling that Diana Mechling had died.

26 28. The autopsy report for Diana Mechling states that the direct cause of death
was exsanguination, or bleeding to death, as a result of the propeller-inflicted lacerations.

1 **FIRST CLAIM FOR RELIEF**

2 **Negligence**

3 29. Plaintiffs reallege each allegation set forth in paragraphs above and below as
4 though fully set forth herein.

5 30. Defendants owed a duty to warn Plaintiff and the other passengers and
6 invitees on the Vessel of the hazards posed by the unique circumstances of maritime
7 travel aboard including those on the cruise excursion.

8 31. Defendants owed a duty to Plaintiffs to operate all aspects of the cruise
9 excursion in a safe and reasonable manner.

10 32. Defendants knew and/or should have known that their failure to warn
11 passengers and invitees on the Vessel of the hazards of maritime travel could lead to
12 injuries or death to those passengers and invitees.

13 33. Defendants knew and/or should have known that their failure to operate all
14 aspects of the cruise excursion in a safe and reasonable manner could lead to injuries to
15 those passengers and invitees participating in the cruise excursion.

16 34. The circumstances under which Diana Mechling was injured were such that
17 Diana Mechling could not have incurred those injuries except by Defendants' negligence.

18 35. All of the Defendants' negligence consisted of, among other things, the
19 following:

20 (a) failing to operate the cruise excursion in a safe and responsible manner;

21 (b) failing to warn passengers of the dangerous, hazardous, and unsafe conditions
22 on the cruise excursion;

23 (c) failing to take responsible precautions against dangerous, hazardous, and
24 unsafe conditions during the cruise excursion;

25 (d) failing to reasonably investigate and determine the cruise excursions were
26 safe and appropriately outfitted before selling such excursions to cruise passengers such
as the Mechlings;

1 (e) failing to make reasonable efforts to ensure that passengers, such as the
2 Diana Mechling, would not be injured by operation of the boat's propellers while
3 snorkelers were in the water around the boat;

4 (f) failing to provide adequate medical treatment, medical equipment, and
5 emergency medical training on the cruise excursion; and

6 (g) such other negligent acts and/or failures to act as may be revealed during the
7 course of this action.

8 36. Defendant Cruise Solutions was negligent in:

9 (a) Failing to establish appropriate procedures and protocol regarding
10 communications between vessel crew and master concerning notice to the vessel master
11 when passengers are in the water;

12 (b) Failing to establish appropriate procedures and protocol regarding the
13 shutting down of the vessel's engine when passengers are in the water;

14 (c) Failing to establish appropriate procedures, protocol and criteria regarding
15 the determination of when weather and/or sea conditions are too extreme to conduct
16 operations involving passengers in the water;

17 (d) Failing to establish appropriate procedures and protocol regarding
18 instruction and training to passengers related to 1) the location on the vessel from which
19 to enter the water, and 2) criteria to be used in determining when to enter the water;

20 (e) Failing to establish appropriate procedures, protocol and criteria regarding
21 training, experience and competence of persons operating and crewing the vessel; and

22 (f) Failing to establish appropriate procedures and protocol regarding the
23 training and instruction of vessel crewmembers to allow operations to be conducted in a
24 safe manner.

25 37. Defendants' negligent actions and failures to act directly and proximately
26 caused Diana Mechling's bodily injury, conscious mental and physical pain and suffering
and ultimately her death.

1 38. Defendants had a duty to protect Diana Mechling from dangers unique in
2 maritime travel.

3 39. Defendants breached their duties by acting negligently and by negligently
4 failing to act.

5 40. Defendants' breaches of their duties to Diana Mechling directly and
6 proximately caused Diana Mechling's physical injuries and death.

7 41. Defendants' breaches of their duties negligently inflicted emotional distress
8 upon Michael Mechling.

9 42. Plaintiffs sustained special damages in an amount to be proven at trial as a
10 result of Defendants' negligence.

11 43. Plaintiffs sustained general damages in an amount to be proven at trial as a
12 result of Defendants' negligence.

13 **SECOND CLAIM FOR RELIEF**

14 **Negligent Hiring and Supervision**

15 44. Plaintiffs reallege each allegation set forth in paragraphs above and below as
16 though fully set forth herein.

17 45. Defendant HAL selected and contracted with Cruise Solutions to provide
18 cruise excursions. Defendant HAL sold these cruise excursions directly to passengers,
19 including the Mechlings.

20 46. Defendant HAL was negligent in:

21 (a) Failing to assure that Cruise Solutions had established appropriate safeguards
22 as referenced in Plaintiff's First Claim for Relief;

23 (b) Failing to conduct an adequate risk assessment related to Cruise Solutions'
24 ability to conduct safe operations;

25 (c) Given the lack of established procedures and protocol referenced in Plaintiff's
26 First Claim for Relief, in failing to warn decedent Diana Mechling and plaintiff Michael
Mechling of the foreseeable dangers associated with the Cruise Solution excursion;

1 (d) Failing to warn decedent Diana Mechling and plaintiff Michael Mechling of
2 defendant Holland America Lines' failure to assure that Cruise Solutions had established
3 appropriate safeguards as referenced in Plaintiff's First Claim for Relief; and

4 (e) Failing to warn decedent Diana Mechling and plaintiff Michael Mechling of
5 defendant Holland America Lines' failure to conduct an adequate risk assessment related
6 to the Cruise Solutions' ability to conduct safe operations.

7 47. Based on the above facts, Defendant HAL had a duty to its fare-paying
8 passengers to properly select, investigate, and supervise Defendant Cruise Solutions to
9 ensure that it conducted shore excursions safely and properly.

10 48. Defendant HAL breached this duty by failing to ensure that Defendant
11 Cruise Solutions maintained even a minimal level of safety precautions for HAL
12 passengers, and by allowing Defendant Cruise Solutions to operate in a negligent and
13 reckless manner.

14 49. As a proximate result of the Defendants' negligence, Diana Mechling did
15 not survive the injuries she sustained.

16 50. Plaintiffs sustained special damages in an amount to be proven at trial as a
17 result of Diana Mechling's injuries.

18 51. Plaintiffs sustained general damages in an amount to be proven at trial as a
19 result of Diana Mechling's injuries.

20 **THIRD CLAIM FOR RELIEF**

21 **Negligent Infliction of Emotional Distress**

22 52. Plaintiffs reallege each allegation set forth in paragraphs above and below as
23 though fully set forth herein.

24 53. Defendants owed a duty to conduct, operate, and supervise the cruise
25 excursion in a safe and reasonable manner.

26 54. Defendants' negligent operation of the cruise excursion directly and
proximately caused Diana Mechling's massive injuries and subsequent death.

1 55. Michael Mechling was present on the cruise excursion when Diana
2 Mechling entered the water to go snorkeling, the intended purpose of the cruise
3 excursion.

4 56. Michael Mechling was present when the operator of the Reef Rocket turned
5 on the engines of the boat, sucking Diana Mechling into the propellers beneath the boat
6 and also causing the boat to lurch, requiring Michael Mechling to catch himself to keep
7 from falling.

8 57. Michael Mechling was present when excursion guides determined Diana
9 Mechling was stuck on the propeller beneath the boat and struggled for about one
10 minute to free her from beneath the boat by cutting off her swimsuit.

11 58. Michael Mechling was present when Diana Mechling was pulled from the
12 water with a deep wound on her right thigh and buttocks and exposed broken femur,
13 wounds from the boat's propellers.

14 59. Michael Mechling held Diana Mechling on the platform of the boat while
15 the boat drove back to shore, bending on and impacting his knees on the platform while
16 Diana Mechling was initially completely naked and bleeding profusely. Both of the
17 Mechlings were placed in immediate risk of harm by being allowed to access the platform
18 when the engines and propellers were or could be engaged and were placed at further
19 immediate risk of harm by being forced to ride on the boat's platform as it sped back to
20 shore.

21 60. Michael Mechling listened as Diana Mechling told him she could not
22 breathe. Michael Mechling called for help from those on board the Reef Rocket, but no
23 one was willing or able to render assistance.

24 61. Michael Mechling was present as Diana Mechling lost consciousness.
25 Again, Michael Mechling called for help from those on board the Reef Rocket, but no one
26 was willing or able to render assistance.

1 62. Michael Mechling was present when the Reef Rocket reached the shore and
2 paramedics removed Diana Mechling, unconscious, from to boat.

3 63. From the moment the boat lurched to the time the boat arrived at the
4 Belize City pier, and as a result of Defendants' negligent conduct, Michael Mechling
5 sustained physical impact and was placed in immediate risk of physical harm.

6 64. Michael Mechling waited for a HAL representative to bring him to the
7 hospital, where doctors told Michael Mechling that Diana Mechling had died.

8 65. Michael Mechling suffered grave emotional distress from the foregoing
9 events, which were all directly and proximately caused by Defendants' negligence.

10 66. Michael Mechling continues to suffer emotional distress due to the highly
11 traumatic loss of his wife.

12 67. Plaintiff, Michael Mechling, suffered damages in an amount to be proven at
13 trial as a result of his emotional distress.

14
15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiffs Michael Mechling as Personal Representative of the estate
17 of Diana Mechling and Michael Mechling, personally, respectfully pray for entry of a
18 judgment granting the following joint and several relief against all defendants:

- 19 (a) For an award of special damages in an amount to be proven at trial;
20 (b) For an award of general damages in an amount to be proven at trial;
21 (c) For an award of interest and attorney's fees as may be allowed by law;
22 (d) For such other and further relief as the Court deems fair, just, and
23 equitable.

24 **JURY DEMAND**

25 Plaintiffs demand a trial by jury on all issues herein triable to a jury.

26 DATED this 18th day of October, 2011.

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