

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.

TRACEY WALLACE,

Plaintiff,

v.

NCL (Bahamas) Ltd. d/b/a NCL

Defendant.

_____ /

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff sues Defendant and alleges:

I. PRELIMINARY ALLEGATIONS

1. At all times material, Plaintiff is a citizen of Texas and Defendant is a corporation not incorporated in Texas and having its principal place of business in Florida. The matter in controversy exceeds, exclusive of interest and costs, the sum specified by 28 U.S.C. §1332. In the event diversity jurisdiction does not apply, then this matter is brought under the admiralty jurisdiction of the court.
2. Defendant NCL (Bahamas) Ltd. d/b/a NCL (hereinafter "NCL"), at all times material hereto, 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;
 - 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. The Defendant was engaged in the business of providing to the public and to the Plaintiff in particular, for compensation, vacation cruises aboard the vessel, Norwegian Sky.
3. At all times material hereto, Defendant NCL is subject to the jurisdiction of the Courts of this state.
 4. At all times material hereto, the causes of action asserted in this Complaint arise under the General Maritime Law of the United States.
 5. At all times material hereto, Defendant NCL owned, operated, managed, maintained and/or controlled the vessel Norwegian Sky.
 6. On or about February 14, 2010, Plaintiff TRACEY WALLACE was a paying passenger on the vessel Norwegian Sky, which was in navigable waters. Defendant has a copy of the Plaintiff's cruise ticket. On or around said date, while a paying passenger aboard defendant's vessel, Plaintiff suffered severe and permanent personal injuries when her passenger cabin door slammed shut and amputated part of her left index finger.

COUNT I – NEGLIGENCE AGAINST NCL

Plaintiff realleges, adopts, and incorporates by reference the allegations in paragraphs 1 through 6 as though alleged originally herein.

7. It was the duty of Defendant NCL to exercise reasonable care under the circumstances.

8. On or about February 14, 2010, NCL and/or its agents, servants, and/or employees breached its duty to provide Plaintiff TRACEY WALLACE with reasonable care under the circumstances.
9. The Plaintiff was injured due to the fault and/or negligence of NCL, and/or its agents, servants, and/or employees as follows:
 - a. Failure to warn and/or adequately warn the Plaintiff of the dangers posed by her passenger cabin door; and/or
 - b. Failure to warn and/or adequately warn the Plaintiff that her cabin door would forcefully close shut; and/or
 - c. Failure to provide reasonable safety measures and/or protections to passengers aboard its ships, including the Plaintiff, to prevent accidents such as the incident alleged herein; and/or
 - d. Failure to provide instruction and/or adequate instruction to passengers, including the Plaintiff, on preventing injuries from passenger cabin doors; and/or
 - e. Failure to provide, implement and/or utilize protective equipment/gear/devices to prevent against the type of injury alleged herein; and/or
 - f. Failure to promulgate and/or enforce adequate policies and procedures to prevent injuries from passenger cabin doors; and/or
 - g. Failure to identify and/or safeguard against the hazards that passenger cabin doors posed to passengers, including the Plaintiff; and/or
 - h. Defendant violated the International Safety Management Code by failing to have an adequate Safety Management System Manual and/or by failing to adequately

implement and follow the Safety Management System Manual they have; all of which caused Plaintiff to be injured.

10. At all material times hereto, the Defendant had exclusive custody and control of the vessel Norwegian Sky.
11. At all times material hereto, the Defendant negligently failed to determine the hazards on the vessel to the Plaintiff, failed to eliminate the hazard, failed to modify the hazard and failed to properly warn the Plaintiff of the hazard.
12. All of the above caused the Plaintiff to be injured.
13. Defendant knew of the foregoing conditions causing the Plaintiff's accident and did not correct them, or the conditions existed for a sufficient length of time so that the Defendant, in the exercise of reasonable care under the circumstances, should have learned of and corrected them.
14. At all times material hereto, Plaintiff had no prior knowledge or warning of the risks that entering and exiting her cabin through the cabin door posed to her safety.
15. As a result of the negligence of the Defendant NCL, the Plaintiff TRACEY WALLACE was injured about the 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 the Plaintiff's injuries, suffered physical handicap, lost wages and her working ability has been impaired. The injuries are permanent or continuing in nature and the Plaintiff will suffer the losses and impairments in the future. In addition, the Plaintiff lost the benefit of the Plaintiff's vacation, cruise, and transportation costs.

WHEREFORE, the Plaintiff demand judgment for all damages recoverable under the law against the Defendant and demands trial by jury.

Lipcon, Margulies, Alsina & Winkleman, P.A.
One Biscayne Tower, Suite 1776
2 South Biscayne Boulevard
Miami, Florida 33131
Telephone: (305) 373-3016
Facsimile: (305) 373-6204

By: 

MICHAEL WINKLEMAN
FLORIDA BAR NO.: 36719