

IN THE CIRCUIT COURT OF THE 17TH JUDICIAL
CIRCUIT, IN AND FOR BROWARD COUNTY,
FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO.: CACE2000-9511

KATIE MALONE.

Plaintiff,

v.

MARRIOTT INTERNATIONAL, INC., SEA
RIDERS, and VALLARTA ADVENTURES,
S.A. de C.V.,

Defendants.

AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff sues Defendants and alleges:

THE PARTIES, JURISDICTION & VENUE

1. At all times material, Plaintiff KATIE MALONE, is sui juris, is a resident of California, and citizen of the United States.
2. Upon information and belief, Defendant MARRIOTT INTERNATIONAL, INC. (“MARRIOTT”) owns and operates the hotel known as the Marriott Puerto Vallarta Resort & Spa located at Paseo La Marina Norte 435, Marina Vallarta, 48354, Puerto Vallarta, Jalisco, Mexico.
3. In the alternative, upon information and belief MARRIOTT licenses its name and controls the operations, security, reservation system, customary business, sales, marketing public relations and/or other functions for the Marriott Puerto Vallarta Resort & Spa and has the control or right of control over the Marriott Puerto Vallarta Resort & Spa and/or the entity

operating the Marriott Puerto Vallarta Resort & Spa so that the entity operating the Marriott Puerto Vallarta Resort & Spa was acting as an actual or apparent agent of Defendant MARRIOTT or in a joint venture and the entity operating the Marriott Puerto Vallarta Resort & Spa was acting in its agency, apparent agency or joint venture relationship with Defendant MARRIOTT at all times relevant.

4. Furthermore, Defendant MARRIOTT controlled or had the right of control over the entity operating the Marriott Puerto Vallarta Resort & Spa so that Defendant MARRIOTT is vicariously liable for the entity operating the Marriott Puerto Vallarta Resort & Spa's acts and omissions.
5. Defendant MARRIOTT is and was a corporation incorporated in Delaware, and maintains an office located in Plantation, Florida, for the transaction of its customary business, including, but not limited to operations, and/or sales, and/or marketing, and/or vacation package designing, and/or public relations accounting, and/or revenue, and other functions for the Marriott Puerto Vallarta Resort & Spa. *See*. Ex. A, attached hereto, news article from www.sun-sentinel.com, dated May 11, 2016. Defendant MARRIOTT may be served through its registered agent, CT Corporation System at 1200 South Pine Island Road, Plantation, FL, 33324.
6. This is an action for damages in excess of Thirty Thousand Dollars (\$30,000.00), exclusive of interest and costs and otherwise within the jurisdiction of this court.
7. At all times material hereto, from their Florida office, the Defendant MARRIOTT, 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, specifically in

Plantation, Florida, for all of its properties in the Caribbean and Latina America, including Marriott Puerto Vallarta Resort & Spa, based on:

- i. Its corporate headquarters are located in Florida at 1200 South Pine Island Road, Plantation, FL, 33324. *See* Ex. A.
 - ii. Defendant MARRIOTT's own website marriott.com states that the office in Plantation, Florida, and Tim Sheldon, President of Marriott, Caribbean & Latin America, are responsible for the operations, financial management, brand standards, quality assurance, operations procurement for all of the hotels in the Caribbean and Latin America.¹
 - iii. President of the Marriott Caribbean and Latin American hotels, Tim Sheldon, oversees the day-to-day activities of all Marriott brand hotels from its headquarters in Broward county, Florida.²
- b. Developed, organized, packaged, designed, planned, operated, promoted, advertised, marketed, vouched for, and directly sold vacations for and at Marriott Puerto Vallarta Resort & Spa to people in Florida (and across the United States and worldwide), including Plaintiff;
- c. Sells or leases tangible and intangible personal property through brokers, jobbers, wholesalers or distributors to persons, firms or corporations in Florida and, therefore, are conclusively presumed to be both engaged in substantial and not isolated activities in Florida and operating, conducting, engaging in, or carrying on a business or

¹ *See* Marriott International, *Tim Sheldon President of Caribbean & Latin America*, Marriott International, (June 5, 2020), <https://news.marriott.com/leadership/tim-sheldon#:~:text=Tim%20Sheldon%20is%20president%20of,management%20of%20hotels%20in%20CALA.&text=Pr%20ior%20to%20his%20current%20role,for%20Marriott's%20Global%20Operations%20Group>.

² *See* Tim Sheldon's LinkedIn, (June 5, 2020), <https://www.linkedin.com/in/tim-sheldon-2a7559101/>

business venture in Florida pursuant to Fla. Stat. § 48.181(3);

- d. Acted as the owner or co-owner, operator or co-operator and/or manager or co-manager of the Marriott Puerto Vallarta Resort & Spa by undertaking the responsibility of:
 - i. Hiring employees, contractors, and agents working at the Marriott Puerto Vallarta Resort & Spa;
 - ii. Training of employees, contractors, and agents working at the Marriott Puerto Vallarta Resort & Spa;
 - iii. Supervision of employees working at the Marriott Puerto Vallarta Resort & Spa; and/or
 - iv. Overseeing the finances and billing of the Marriott Puerto Vallarta Resort & Spa;
 - v. Determined pricing;
 - vi. Shared in the profits and losses;
 - vii. Promulgated rules, policies and procedures, and regulations for the operation at the Marriott Puerto Vallarta Resort & Spa;
 - viii. Collected monies for vacations at the Marriott Puerto Vallarta Resort & Spa;
 - ix. Investigated customer complaints;
 - x. Issued refunds;
 - xi. Maintained records keeping;
 - xii. Managed public relations;
 - xiii. Managed websites;
 - xiv. Issued press releases;

- xv. Developed partnerships and/or other business relationships with Florida entities and/or entities based in the United States;
 - e. MARRIOTT has purposefully availed itself to the privileges and benefits of courts in Florida as it has repeatedly initiated claims in this district. *See Marriott International, Inc. v. Sonshine Educational Tours Inc.*, Case No. 2011-1YE1C002429 (Fla. Cir. 2011); *Marriott International, Inc. v. Michael S. Broder*, Case No. 2012-12024157 (Fla. Cir. 2012); *Marriott International, Inc. v. David Mitzan*, Case No. 2016-16007527 (Fla. Cir. 2016); *Marriott International, Inc. v. Ana Maria Chirinos Barajas*, Case No. 2016-16009310 (Fla. Cir. 2016).
8. Upon information and belief, Defendant SEA RIDERS is incorporated in Mexico and is operating watersports activities in Puerto Vallarta, Jalisco, Mexico.
9. At all times material hereto, upon information and belief, the Defendant SEA RIDERS, 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 and not isolated activity within this state;
 - c. Operated vessels in this state;
 - d. Committed one or more of the acts stated in Florida Statutes, Sections 48.062, 48.181 and/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.

10. Upon information and belief, Defendant VALLARTA ADVENTURES, S.A. de C.V. (“VALLARTA ADVENTURES”) is incorporated in Mexico and is operating watersports activities in Puerto Vallarta, Jalisco, Mexico.
11. At all times material hereto, upon information and belief, the Defendant VALLARTA ADVENTURES, 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 and not isolated activity within this state;
 - c. Operated vessels in this state;
 - d. Committed one or more of the acts stated in Florida Statutes, Sections 48.062, 48.181 and/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.

GENERAL ALLEGATIONS

12. This case stems from the severe personal injuries of Katie Malone when she was parasailing from the private beach at the Marriott Puerto Vallarta Resort & Spa on June 9, 2018 and fell to the Earth from great height due to the Defendants’ collective negligence.
13. At all times material, Defendant MARRIOTT was and is engaged in the business of providing vacation packages to the public.
14. Defendant MARRIOTT invited the general public, including the Plaintiff, to become guests at the Marriott Puerto Vallarta Resort & Spa in exchange for a monetary charge.
15. To entice prospective customers, Defendant MARRIOTT touted its “private beach” which included an assortment of beach and water activities at the resort’s property, including but

not limited to parasailing from the Marriott Puerto Vallarta Resort & Spa private beach.

16. Prior to purchasing their vacation package, the Plaintiff reviewed Defendant MARRIOTT's website and literature, created by the Defendant MARRIOTT and placed on their website and in press releases. She relied on these representations in selecting and purchasing her vacation at the Marriott Puerto Vallarta Resort & Spa.

17. In making her decision to purchase the vacation package, Plaintiff was further persuaded, convinced, and relied on Defendant MARRIOTT's representations and enticements that the property had extreme sports where guests could participate in water sports such as parasailing. The following is the Marriott Puerto Vallarta Resort & Spa's Instagram post promoting parasailing:



18. Upon arriving at the Marriott Puerto Vallarta Resort & Spa, Defendant MARRIOTT made

additional representations and enticements to encourage guests to make use of the resort's beach facilities, including but not limited to activities such as parasailing.

19. Defendant made direct representations to the Plaintiff concerning the available parasailing at the Marriott Puerto Vallarta Resort & Spa, stating that it was safe.
20. Based on the representations of Defendant MARRIOTT to the Plaintiff about the safety of the parasailing, the Plaintiff reasonably relied on the express representation that the parasailing activities were operated by and/or supervised by and/or inspected by Defendant MARRIOTT.
21. Defendant MARRIOTT's representations led the Plaintiff to reasonably believe and understand that the parasailing was a safe and secure activity operated by skilled personnel, using equipment meeting the highest standards, and checked and inspected by Defendant MARRIOTT.
22. On June 9, 2018, in the morning, the airport less than a mile north of the Marriott Puerto Vallarta Resort & Spa, Licenciado Gustavo Díaz Ordaz International Airport, grounded all flights in the area, and published a warning for any vessels in the nearby area to cease operations due to inclement weather.
23. On or about June 9, 2018, the Plaintiff was laying on a beach-chair on Defendant MARRIOTT's private beach when she was approached by Defendant MARRIOTT and/or its agent, and/or its representative, and/or its workmen to go parasailing off Defendant MARRIOTT's private beach.
24. On or about June 9, 2018, the Plaintiff participated in the parasailing offered by the Defendant MARRIOTT on its private beach.
25. Before participating in the parasailing activity, no instructions were given to Plaintiff

regarding the parasailing operation by any of the Defendants.

26. Plaintiff requested information regarding the operation and safety of the parasailing activity, but Defendants' employee and/or agent and/or apparent agent and/or partner told Plaintiff there was nothing to worry about.
27. Plaintiff was strapped into the parasailing apparatus by Defendants SEA RIDERS and VALLARTA ADVENTURES while on Defendant MARRIOTT's private beach.
28. At all times material, the parasailing vessel was being operated by Defendant SEA RIDERS' employee and/or agent and/or apparent agent and/or partner.
29. While parasailing, over 1400 feet in the air, the parasailing equipment malfunctioned and/or the rope connecting the parasailing to the tow vessel broke causing the Plaintiff to suspend in the air for about forty-five (45) minutes and then plummet to the ground at a nearby airport.
30. As a result of the impact of the fall, the Plaintiff suffered severe permanent personal injuries to her head and body.
31. At all times material, the company operating the parasailing at the time of the subject incident Defendant SEA RIDERS and/or Defendant VALLARTA ADVENTURES were the agents and/or apparent agents of Defendant MARRIOTT by virtue of the following, such that Defendant MARRIOTT is estopped from denying that Defendants SEA RIDERS and VALLARTA ADVENTURES was Defendant MARRIOTT's agents and/or apparent agents:
 - a. Defendant permitted Defendants SEA RIDERS and VALLARTA ADVENTURES to operate from its private beach at the Marriott Puerto Vallarta Resort for the express purpose of serving as water sports provider to the resort. The following is an Instagram post by Defendant SEA RIDERS of its parasailing operation Marriott

Puerto Vallarta Resort & Spa's private beach that was "liked" by Defendant MARRIOTT's Instagram account:



- b. Defendant MARRIOTT recommended the parasailing without disclosing to Plaintiff that it was run by another entity; and/or
- c. Defendant MARRIOTT promoted the parasailing without disclosing to Plaintiff that it was run by another entity; and/or
- d. Defendant MARRIOTT permitted and expected Defendants SEA RIDERS AND VALLARTA ADVENTURES to solicit resort guests and beachgoers on the beach located directly in front of the Marriot Puerto Vallarta resort; and/or
- e. Defendant MARRIOTT directed its guests to the parasailing without disclosing to Plaintiff that it was run by another entity; and/or
- f. Defendant MARRIOTT participated in making the arrangements for parasailing without disclosing to Plaintiff that the excursion was being run by another entity; and/or
- g. Until the point that Plaintiff actually participated in parasailing, the Plaintiff's exclusive contacts concerning parasailing was with Defendant MARRIOTT.

32. The operation and availability of the parasailing activity on Marriott Puerto Vallarta Resort's private beach was an integral part and attraction of Defendant MARRIOTT and was in furtherance of the hotel's financial and business interests.
33. At all times material hereto, Defendants SEA RIDERS and VALLARTA ADVENTURES acted within the actual, apparent, express, or implied authority of Defendant MARRIOTT in soliciting parasailing attractions to persons, including the Plaintiff, who were guests at Marriott Puerto Vallarta Resort owned by Defendant MARRIOTT.
34. At all times material, Plaintiff reasonably relied on the above as well as the foregoing statements made by Defendant MARRIOTT, to Plaintiff's detriment, so as to believe that the entity operating the parasailing at the time of the subject incident Defendants SEA RIDERS and/or VALLARTA ADVENTURES were the employee(s) and/or agent(s) of Defendant MARRIOTT and/or were supervised by Defendant MARRIOTT, in choosing and participating in the excursion.
35. At no time did Defendant MARRIOTT represent to Plaintiff, in a meaningful way, that Defendants SEA RIDERS and/or VALLARTA ADVENTURES were not agent(s) and/or employee(s) of Defendant MARRIOTT, and/or were not supervised by Defendant MARRIOTT, and/or that Defendant MARRIOTT would subsequently attempt to disavow all responsibility for the safe operation of the parasailing operation which they advertised, promoted, marketed, coordinated, vouched for to the Plaintiff.
36. At all times material hereto, Defendant MARRIOTT was the owners or co-owners of the subject parasailing operation. At all times material hereto, Defendant MARRIOTT was responsible for, and liable for, the actions of the parasailing operation.

37. In the alternative, at all times material hereto, a partnership and/or joint venture existed between Defendant MARRIOTT and Defendants SEA RIDERS and VALLARTA ADVENTURES by virtue of the following, whereby Defendant MARRIOTT and Defendants SEA RIDERS and VALLARTA ADVENTURES are jointly and severally responsible for the negligence of each other as partners of the partnership and/or agency relationship and/or joint venture:

- a. Defendant MARRIOTT screened and selected which entity would operate the parasailing from its private beach; and/or
- b. Defendant MARRIOTT advertised, promoted and marketed parasailing, on behalf of the partnership with the parasailing entities; and/or
- c. Defendant MARRIOTT maintained departments and/or specific groups of employees in its headquarters who were devoted to developing, setting the guidelines and requirements for, including insurance requirements, promoting, marketing, coordinating, explaining, overseeing, supervising, auditing, tracking and monitoring the water sports sold to the Plaintiff and its other customers, including parasailing; and/or
- d. Defendant MARRIOTT supervised the parasailing entities including its standards, policies, and/or procedures that the parasailing entities must adhere to while Defendant MARRIOTT is offering parasailing to its customers. Additionally, Defendants SEA RIDERS and VALLARTA ADVENTURES are subject to inspections and/or approval by Defendant MARRIOTT, wherein Defendant MARRIOTT may conduct inspections of the operation and the equipment parasailing entities; and/or

- e. Defendant MARRIOTT maintained employees which marketed, offered, sold, provided expert advice and information, answered questions, handled and resolved complaints and refunds, on behalf of Defendants SEA RIDERS and VALLARTA ADVENTURES, for which Defendant MARRIOTT incurred certain expenses and costs; and/or
- f. Defendants SEA RIDERS and VALLARTA ADVENTURES provided the equipment and vessels to be used in the subject parasailing operation; and/or
- g. Defendant MARRIOTT determined the amount of money charged to the Plaintiff for the parasailing; and/or
- h. Defendant MARRIOTT collected the amount of money from the Plaintiff charged for the parasailing; and/or
- i. Defendant MARRIOTT shared the money charged and collected from Plaintiff for parasailing; and/or
- j. Defendant MARRIOTT invested its time, money, effort, overhead, employees, operating costs, salaries and other resources into this joint venture and each shared in the losses of the joint venture if it were unsuccessful or unprofitable. In Florida, the duty to share in losses actually and impliedly exists as a matter of law in a situation where one parties supplies the labor, experience, and skill and the other party provides the capital; and/or
- k. In addition to sharing in the money generated by the joint venture, Defendant MARRIOTT and Defendants SEA RIDERS and VALLARTA ADVENTURES also shared in the profits of the joint venture in that it increased the attractability and value of their overall products and services, thereby improving their overall business

prospects and profits, while also helping in their efforts to expand their core businesses; and/or

- l. In the case of Defendant MARRIOTT, the success of the parasailing operation increased its ability to attract guests to the Marriott Puerto Vallarta Resort, which in turn created more potential business and income for the parasailing operation. In the case of Defendants SEA RIDERS and VALLARTA ADVENTURES it increased their ability to attract and successfully market its services to other resorts and entities; and/or
- m. Defendant MARRIOTT controlled and/or maintained the right of control over the parasailing operation by supervising and monitoring its performance and retaining the right to require the parasailing entities to modify, alter or change the manner in which the parasailing operation was conducted; and/or
- n. Defendant MARRIOTT represented to its guests, including the Plaintiff, that it owned, operated, controlled and took care of all details and aspects of the parasailing operation.

COUNT I
NEGLIGENCE CLAIM AGAINST ALL DEFENDANTS

38. Plaintiff realleges, adopts, and incorporates by reference the allegations contained in paragraphs 1 through 37 as though alleged originally herein.

39. At all times material, Defendants had a duty to exercise reasonable care for the health, welfare and safety of its invitees, guests and patrons whom it marketed, enticed, and exposed to new, novel and exciting water-sport adventures which it sold and/or recommended as part of its resort activities. This included a duty to lessen foreseeable risks, take sufficient precautions to protect guests from the harm the risks posed, and/or to take other reasonable

steps to protect guests, against known or obvious conditions that the Defendants had reason to expect would cause the invitees to suffer a physical harm.

40. At all times material, Defendants by and through their employees, servants, agents, joint venture, and/or representatives acting within the course and scope of their employment were negligent and breached their duty of care to the Plaintiff by committing the following acts and/or omissions, including, but not limited to:

- a. Failing to adequately warn of the dangers associated with parasailing;
- b. Failing to adequately warn of the perils associated with parasailing in inclement weather;
- c. Failing to adequately warn of the defects associated with the parasail equipment used for the subject incident;
- d. Failing to adequately inspect and/or maintain the parasailing equipment for defective and/or dangerous conditions, and/or to otherwise require proof from its employees, and/or agents on a regular basis that its equipment was properly maintained and/or replaced as it aged or became worn;
- e. Failing to monitor and/or supervise parasailing operations;
- f. Failing to inspect equipment used for parasailing operations;
- g. Failing to promulgate and/or enforce adequate policies and procedures for inspecting and/or maintaining equipment for parasailing operations, including, but not limited to, requiring employees, and/or agents to monitor and inspect parasailing equipment on a regular basis and to replace equipment that has become aged or which presents a dangerous condition;
- h. Failing to promulgate and/or enforce adequate policies and procedures for warning

- guests of the dangers of parasailing;
- i. Failing to promulgate and/or enforce adequate policies and procedures that prohibits employees and/or agents and/or apparent agents and/or partners from soliciting parasailing activities to guests of Marriott Puerto Vallarta Resort in inclement weather such as that which existed on June 9, 2018, and/or prohibiting operation of the parasailing equipment in situations of inclement weather such as that which existed on June 9, 2018;
 - j. Failing to promulgate and/or enforce adequate policies and procedures requiring that employees and/or agents of the parasailing operation determine the skill and familiarity level of all persons to whom parasail rides were sold, and/or to instruct and educate all users of parasailing equipment and services on how to use the equipment;
 - k. Failing to require and ensure that the parasailing entities (believed to be “Sea Riders” and/or “Vallarta Adventures”) employees and/or agents were licensed and otherwise competent to instruct persons on the use of the parasailing equipment and competent to operate parasailing equipment;
 - l. Failing to provide redundancy and/or reinforcement of cables connecting parasailing equipment to vessel;
 - m. Failing to terminate and/or ban parasailing operations from Defendant MARRIOTT’s resort when conditions posed a greater than normal risk;
 - n. Failing to cease all parasail operations when it became apparent that inclement weather was imminent;
 - o. Using parasail equipment, including the tow rope and winch, that was in a state of

disrepair and unfit for its ordinary and intended use;

- p. Using parasail equipment, including the tow rope and winch, that was in a state of disrepair and unfit for use in windy and inclement weather conditions;
- q. Misrepresenting the safety of parasailing in tandem in inclement weather;
- r. Operating the parasailing equipment in an area that was closed to boaters;
- s. Failing to have and/or implement an emergency plan in the event a tow rope broke to quickly and safely rescue parasail riders from the ocean waters and/or retrieve parasail riders who had become detached from the tow rope;
- t. Failing to test equipment used in parasailing on a regular ongoing basis before allowing resort guests to parasail;
- u. Failing to adequately supervise and monitor the resort's beach area at the time and place of the subject incident;
- v. Failing to implement a method of operation which was reasonable and safe and would prevent the creation of a dangerous condition, such as the one in this case, and utilizing or allowing negligent methods of operation and/or defective equipment;
- w. Failing to have assigned sufficient and/or trained staff to adequately and reasonably respond to emergency situations;
- x. By such other acts and omissions as may be presently unknown but which may be revealed in discovery.

41. At all times material hereto, Defendants knew of the forgoing conditions causing Plaintiff's accident and did not correct them, or the conditions existed for a sufficient length of time so that Defendants in the exercise of reasonable care under the circumstances should have learned of them and corrected them.

42. At all times material hereto, Defendants knew or should have known that the use of defective, aged and/or deteriorated parasailing equipment could result in serious injury or death and as such posed an unreasonable risk to persons solicited by and who purchased parasail rides.
43. At all times material hereto, Defendants knew or should have known that operating parasail equipment in weather conditions such as those that existed on June 9, 2018 could result in serious injury or death and as such posed an unreasonable risk to persons solicited by and who purchased parasail rides.
44. As a direct and proximate result of the negligence and carelessness of Defendant, Plaintiff KATIE MALONE, while parasailing over 1400 feet in the air, was caused to plummet to the earth after being suspended in the air for a significant period when a part of the parasailing equipment broke and detached Plaintiff and her attached parasailing equipment from the tow vessel.
45. As a further direct and proximate result of the above-mentioned negligence and carelessness of Defendants, Plaintiff was injured about her body and extremities, suffered physical pain, mental anguish, loss of enjoyment of life, disability, disfigurement, physical handicap, post-traumatic stress disorder and other mental and/or nervous disorders, suffered the aggravation of any previously existing conditions and incurred medical expenses in the care and treatment of her injuries. Further, the injuries resulting from the incident are permanent or continuing in nature and she will suffer these losses and impairments into the future.

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

COUNT II
VICARIOUS LIABILITY – ACTUAL AGENCY

46. Plaintiff realleges, adopts, and incorporates by reference the allegations contained in

paragraphs 1 through 37 as though alleged originally herein.

47. At all material times, Defendants SEA RIDERS and VALLARTA ADVENTURES acted on behalf of Defendant MARRIOTT with respect to providing the equipment and vessel(s) for the parasailing operations.
48. At all material times, the Defendant MARRIOTT exercised and/or retained the right to control over the day-to-day operations of Defendants SEA RIDERS and VALLARTA ADVENTURES for the sale, operations, and provision of parasailing operations.
49. At all material times, the Defendant MARRIOTT acted as principal to Defendants SEA RIDERS and VALLARTA ADVENTURES for the sale, operations, and provision of parasailing operations.
50. At all material times, the Defendant MARRIOTT represented to the general public, including the Plaintiff, that they were the principal to the Defendants SEA RIDERS and VALLARTA ADVENTURES for the sale, operations, and provision of parasailing operations.
51. Defendants SEA RIDERS and VALLARTA ADVENTURES acknowledged their agency status with Defendant MARRIOTT directly and/or indirectly. Thus, Defendant MARRIOTT is vicariously liable for the negligence of their agents as set forth in Count I (¶40 (a)-(x)) and incorporated herein by reference, which were a direct and proximate cause of the Plaintiff's injuries and damages.
52. As a direct and proximate result of the negligence and carelessness of Defendants, the Plaintiff while parasailing over 1400 feet in the air, the parasailing equipment malfunctioned and/or the rope connecting the parasailing to the tow vessel broke causing the Plaintiff to suspend in the air for about forty-five (45) minutes and then plummet to the ground at a nearby airport.

53. At all times material hereto, Defendants knew of the forgoing conditions causing Plaintiff's accident and did not correct them, or the conditions existed for a sufficient length of time so that Defendants in the exercise of reasonable care under the circumstances should have learned of them and corrected them.
54. At all times material hereto, Defendants knew or should have known that the use of defective, aged and/or deteriorated parasailing equipment could result in serious injury or death and as such posed an unreasonable risk to persons solicited by and who purchased parasail rides.
55. At all times material hereto, Defendants knew or should have known that operating parasail equipment in weather conditions such as those that existed on June 9, 2018 could result in serious injury or death and as such posed an unreasonable risk to persons solicited by and who purchased parasail rides.
56. As a direct and proximate result of the negligence and carelessness of Defendant, Plaintiff KATIE MALONE, while parasailing over 1400 feet in the air, was caused to plummet to the earth after being suspended in the air for a significant period when a part of the parasailing equipment broke and detached Plaintiff and her attached parasailing equipment from the tow vessel.
57. As a further direct and proximate result of the above-mentioned negligence and carelessness of Defendants, Plaintiff was injured about her body and extremities, suffered physical pain, mental anguish, loss of enjoyment of life, disability, disfigurement, physical handicap, post-traumatic stress disorder and other mental and/or nervous disorders, suffered the aggravation of any previously existing conditions and incurred medical expenses in the care and treatment of her injuries. Further, the injuries resulting from the incident are permanent or continuing in nature and she will suffer these losses and impairments into the future.

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

COUNT III
APPARENT AGENCY OR AGENCY BY ESTOPPEL

58. Plaintiff realleges, adopts, and incorporates by reference the allegations contained in paragraphs 1 through 37 as though alleged originally herein.
59. At all material times, Defendants SEA RIDERS and VALLARTA ADVENTURES were apparent agents of Defendant MARRIOTT.
60. At all material times, the Defendant MARRIOTT held out Defendants SEA RIDERS and VALLARTA ADVENTURES as its apparent agents. Defendant MARRIOTT represented to the general public, including the Plaintiff, that Defendants SEA RIDERS and VALLARTA ADVENTURES were acting for their benefit in the sale operations, and provision of parasailing operations.
61. On its website, literature, promotional materials and through its actions and representations, including but not limited to such statements on Defendant MARRIOTT's website where it states Defendant VALLARTA ADVENTURES is its "Local Partner," and on Defendant MARRIOTT's Instagram page promoting Defendant SEA RIDERS parasailing equipment and operation as set forth in ¶ 17, Defendant MARRIOTT intentionally and/or by want of reasonable care made representations to indicate that all the Defendants were one single entity.
62. As a result of the numerous and persuasive representations, as indicated above, the Plaintiff had a reasonable belief that Defendants SEA RIDERS and VALLARTA ADVENTURES had the authority to act on behalf of and for the benefit of Defendant MARRIOTT for the

sale operations, and provision of parasailing operations.

63. As a result of the numerous and persuasive representations, as indicated above, the Plaintiff had a reasonable belief that Defendant MARRIOTT had the right to control the conduct of its agents, Defendants SEA RIDERS and VALLARTA ADVENTURES, with respect to the sale operations, and provision of parasailing operations.

64. As a result of the numerous and persuasive representations, as indicated above, the Plaintiff had a reasonable belief that Defendant MARRIOTT had the right to control the policy and procedures of its agents, Defendants SEA RIDERS and VALLARTA ADVENTURES, with respect to the sale operations, and provision of parasailing operations.

65. Plaintiff relied and acted upon such beliefs of agency in purchasing and participating in the parasailing operations.

66. Defendant MARRIOTT is estopped to deny that Defendants SEA RIDERS and VALLARTA ADVENTURES were its agent(s), employee(s) and/or representative.

67. Defendant MARRIOTT is legally responsible for the negligent acts of Defendants SEA RIDERS and VALLARTA ADVENTURES as set forth in Count I (§40 (a)-(x)) and incorporated herein by reference, which were a direct and proximate cause of the Plaintiff's injuries and damages.

68. As a direct and proximate result of the negligence and carelessness of Defendants, the Plaintiff while parasailing over 1400 feet in the air, the parasailing equipment malfunctioned and/or the rope connecting the parasailing to the tow vessel broke causing the Plaintiff to suspend in the air for about forty-five (45) minutes and then plummet to the ground at a nearby airport.

69. At all times material hereto, Defendants knew of the forgoing conditions causing Plaintiff's

accident and did not correct them, or the conditions existed for a sufficient length of time so that Defendants in the exercise of reasonable care under the circumstances should have learned of them and corrected them.

70. At all times material hereto, Defendants knew or should have known that the use of defective, aged and/or deteriorated parasailing equipment could result in serious injury or death and as such posed an unreasonable risk to persons solicited by and who purchased parasail rides.

71. At all times material hereto, Defendants knew or should have known that operating parasail equipment in weather conditions such as those that existed on June 9, 2018 could result in serious injury or death and as such posed an unreasonable risk to persons solicited by and who purchased parasail rides.

72. As a direct and proximate result of the negligence and carelessness of Defendant, Plaintiff KATIE MALONE, while parasailing over 1400 feet in the air, was caused to plummet to the earth after being suspended in the air for a significant period when a part of the parasailing equipment broke and detached Plaintiff and her attached parasailing equipment from the tow vessel.

73. As a further direct and proximate result of the above-mentioned negligence and carelessness of Defendants, Plaintiff was injured about her body and extremities, suffered physical pain, mental anguish, loss of enjoyment of life, disability, disfigurement, physical handicap, post-traumatic stress disorder and other mental and/or nervous disorders, suffered the aggravation of any previously existing conditions and incurred medical expenses in the care and treatment of her injuries. Further, the injuries resulting from the incident are permanent or continuing in nature and she will suffer these losses and impairments into the future.

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

COUNT IV
VICARIOUS LIABILITY – JOINT VENTURE

74. Plaintiff realleges, adopts, and incorporates by reference the allegations contained in paragraphs 1 through 37 as though alleged originally herein.
75. At all material times Defendants engaged in a joint venture to develop, organize, package, design, plan, operate, promote, advertise, market, vouch for, and directly sell and provide parasailing adventures and/or operations for and at Marriott Puerto Vallarta Resort & Spa.
76. At all material times, Defendants intended to form and in fact engaged in a joint venture and/or joint enterprise for and to develop, organize, package, design, plan, operate, promote, advertise, market, vouch for, and directly sell and provide parasailing adventures and/or operations for and at Marriott Puerto Vallarta Resort & Spa.
77. At all material times, Defendants had:
- a. An intention to create a joint venture;
 - b. A community of interest in the performance of the common purpose;
 - c. A joint right to control with respect to the provision of vacation packages;
 - d. A right to share in the profits; and
 - e. A right to share in the losses which may have been sustained.
78. As joint venturers and/or a joint enterprise, the Defendants are vicariously liable for each other's negligence in the furtherance of the enterprise. Defendants are liable for the negligent conduct as set forth in Count I (¶40 (a)-(x)) and incorporated herein by reference, which were a direct and proximate cause of the Plaintiff's injuries and damages.

79. As a direct and proximate result of the negligence and carelessness of Defendants, the Plaintiff while parasailing over 1400 feet in the air, the parasailing equipment malfunctioned and/or the rope connecting the parasailing to the tow vessel broke causing the Plaintiff to suspend in the air for about forty-five (45) minutes and then plummet to the ground at a nearby airport.
80. At all times material hereto, Defendants knew of the forgoing conditions causing Plaintiff's accident and did not correct them, or the conditions existed for a sufficient length of time so that Defendants in the exercise of reasonable care under the circumstances should have learned of them and corrected them.
81. At all times material hereto, Defendants knew or should have known that the use of defective, aged and/or deteriorated parasailing equipment could result in serious injury or death and as such posed an unreasonable risk to persons solicited by and who purchased parasail rides.
82. At all times material hereto, Defendants knew or should have known that operating parasail equipment in weather conditions such as those that existed on June 9, 2018 could result in serious injury or death and as such posed an unreasonable risk to persons solicited by and who purchased parasail rides.
83. As a direct and proximate result of the negligence and carelessness of Defendant, Plaintiff KATIE MALONE, while parasailing over 1400 feet in the air, was caused to plummet to the earth after being suspended in the air for a significant period when a part of the parasailing equipment broke and detached Plaintiff and her attached parasailing equipment from the tow vessel.
84. As a further direct and proximate result of the above-mentioned negligence and carelessness of Defendants, Plaintiff was injured about her body and extremities, suffered physical pain,

mental anguish, loss of enjoyment of life, disability, disfigurement, physical handicap, post-traumatic stress disorder and other mental and/or nervous disorders, suffered the aggravation of any previously existing conditions and incurred medical expenses in the care and treatment of her injuries. Further, the injuries resulting from the incident are permanent or continuing in nature and she will suffer these losses and impairments into the future.

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

Respectfully submitted,

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