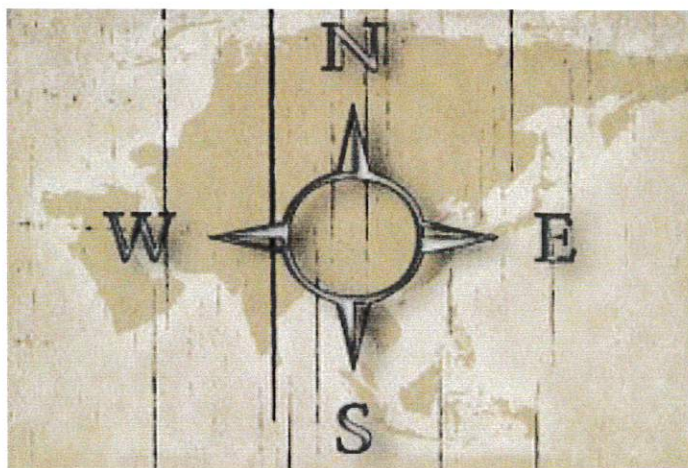


MARITIME LAW ASSOCIATION

Cruise Lines + Passenger Ships Committee Newsletter

In This Issue

- Committee Meeting Agenda
- The Cruise Passenger Protection Act of 2015
- Update on the Law
- Recent Trial Results



JOINT COMMITTEE
MEETING
CRUISE LINES AND
PASSENGER SHIP
COMMITTEE
AND
MARITIME TORTS AND CASUALTY
COMMITTEE

Date/Time:

Wednesday, October 26, 2016 @ 3:30 pm – 5:00 pm

Location:

Board of Trade
316 Magazine Street
New Orleans, LA 70170
504-262-0412

AGENDA

JOINT COMMITTEE MEETING CRUISE LINES AND PASSENGER SHIPS AND MARINE TORTS AND CASUALTIES

CHAIRS:
CAROL FINKLEHOFF, ESQ.
CHARLES DELEO, ESQ.

Hot Topics in Passenger and Crew Claims on Passenger Vessels From Canadian and American Perspectives

Reconciling the clash between the historical protections for seamen and the increasing use of international arbitration agreements

Robert Peltz, Peltz Law Firm, Miami

Enforceability of US jurisdiction clauses in passenger contracts in Canada and Canadian passenger compensation regimes.

Jean-Marie Fontaine, Borden Ladner, Montreal

The Zika virus: From stagnant waters to growing fears for the maritime community.

Rebecca Hamra, Charles Taylor P&I Management (Americas), New York

This session will be eligible for 1.6 CLE credit hours in 50 minute states and 1.5 credit hours in 60 minute states. No remote video or telephone links available

THE CRUISE PASSENGER PROTECTION ACT OF 2015

A new senate bill, The Cruise Passenger Protection Act of 2015 (CPPA), has recently been introduced. Sponsored by U.S. Congresswoman Doris Matsui (D-CA) and Senator Richard Blumenthal (D-CT), it is designed to improve upon the 2010 Cruise Vessel Security and Safety Act (CVSSA).

The CPPA would require:

- The installation of Man Overboard Systems on all cruise ships since the technology is now available. This system should have both an alarm and video capture feature.
- A certified Victim's Advocate who would be the victim's primary point of contact in order to make certain that a passenger is informed of his or her rights and the cruise line was in compliance with the law. In addition have a 24-hour toll free number for crime victims so they can obtain support services.
- Medical staff credentialing and certifying process outlined in the CVSSA apply to all medical cases, and not just in sexual assaults. The training should be mandatory and certified by an independent third party.
- Acoustic sounding devices be added to all cruise ships to enforce the Homeland Security requirement that no ship (i.e. ships manned with pirates or terrorists) come within 500 feet of a cruise ship.
- The CVSSA apply to all cruise ships,

whether or not the voyage embarks or disembarks in the United States.

- A toll free hot-line and websites for passenger complaints and give the DOT authority to investigate.
- Staffing of an appropriate number of sea marshals on a vessel, which are trained and certified by the USCG.
- Strengthening of video surveillance requirements including placement, access to requests, and notice of video surveillance equipment to monitor crime.
- The DOT to maintain, on a website, the statistical compilation of reported incidents of missing persons, crimes, and other information for vessel passengers.
- The DOT be the lead federal agency on consumer protection issues for cruise ship passengers, and determine if any of the enumerated rights in the international cruise line passenger bill of rights is enforceable under federal law.
- Civil and criminal penalties for the violations of this Act, including withholding or revoking clearance or denial of entry into the United States.
- Cruise lines provide consumers with a clear upfront summary of the restrictive terms and conditions in cruise line contracts and a short summary of the key rights and limitations.

UPDATE ON THE LAW

By: Carol L. Finklehoffe, Esq.
Lipcon, Margulies, Alsina, & Winkleman,
P.A., Miami, Florida

Passenger Claims

Collateral Source Rule

Beam v. Carnival Corporation, 15-22103-CIV-Gayles (S.D.Fla. October 12, 2016)

Plaintiff may introduce her total medical bills to the jury. The Court reserved the right to reduce any award post trial based on any negotiated reductions and/or write offs.

Hillenburg v. Carnival Corporation, 2016 WL 5922756 (S.D.Fla. September 21, 2016)

Court struck the cruise line's affirmative defense, prohibiting the defendant from reducing its liability by amounts to the plaintiff by collateral sources. In attempting to reduce the amount of damages by the amount of benefits paid or payable runs squarely against the collateral source rule. The plaintiff still has the burden to demonstrate the reasonableness and necessity of her medical expenses which the cruise line may still challenge.

Richter v. Carnival Corporation, 15-22189-CIV-Lenard/Goodman (S.D.Fla. September 21, 2016)

Court granted plaintiff's motion in limine to exclude evidence regarding medical bills that were reduced or forgiven as part of her insurer's separate payment contracts with her medical providers based upon the collateral source rule.

Galarza v. Carnival Corporation, 15-24380-CIV-Altonaga/O'Sullivan (S.D.Fla. September 2, 2016)

Denial of the plaintiff's motion in limine to exclude evidence regarding medical bills that were reduced or forgiven as part of her insurer's separate payment contracts with her medical providers.

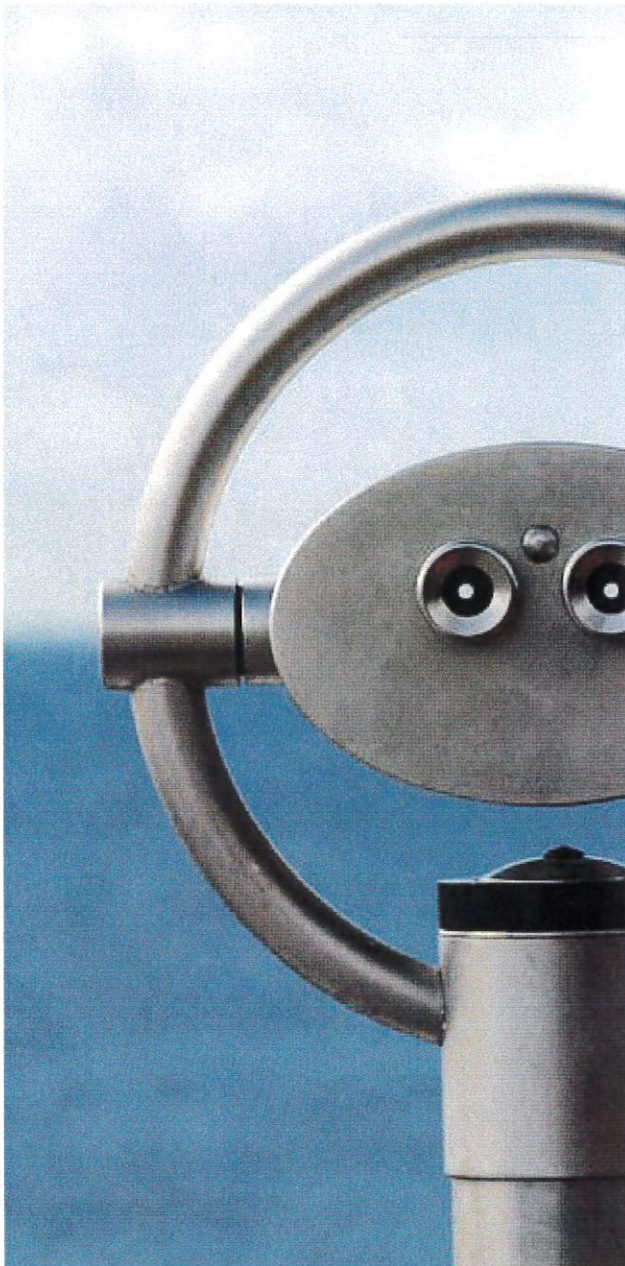
Daubert Challenges

Beam v. Carnival Corporation, 15-22103-CIV-Gayles (S.D.Fla. October 12, 2016)

The Court rejected the defendant's argument that the plaintiff's liability expert should be stricken because his opinions were merely based on common sense. The Court found that there was sufficient materials which the expert relied upon to support his opinions. In addition, the expert's testimony would be helpful in the jury's understanding of maritime safety regulations. The Court also denied defendant's challenge to the plaintiff's damages expert ruling that the expert's opinions were not based solely on temporal proximity. The doctor's opinions were based on a medical history from the plaintiff as well as review of films and an evaluation of the plaintiff. Most significantly the doctor was able to see the plaintiff's cervical spine during surgery to rule out other possible causes

Brown v. NCL (Bahamas) Ltd., 15-21732-CIV-Lenard/Goodman (S.D. Fla. June 10, 2016)

In denying the defendant's motion to strike the plaintiff's neuropsychology expert the Court found that the doctor's telephonic interview coupled with his review of medical records was sufficiently reliable methodology. Further that the doctor could



rely on the opinions of other doctors who administered the battery of tests, so long as their methods were reliable. Failure to examine pre-incident medical records goes to the weight of the expert's testimony, not to its admissibility.

The Court granted the defendant's motion to strike certain opinions of the plaintiff's neurology expert as untimely. The doctor's

initial report with his clinical impressions were timely disclosed. However the doctor obtained additional information and formulated his final diagnosis later. No supplemental disclosure was issued and the defendant did not learn of the additional diagnosis until the doctor's deposition. Due to the late disclosure and/or failure to supplement, the defendant was denied an opportunity to fully prepare his cross examination.

The Court granted the plaintiff's motion to strike certain statements contained within the report of the defense expert. The Court struck statements pertaining to the plaintiff's poor safety judgment on the night in question, psychological dysfunction, consistency in receiving psychological counseling and loss of her job, home, and other social stressors. The doctor would be permitted to testify as to interpreting medical records and films.

Galarza v. Carnival Corporation, 15-24380-CIV-Altonaga/O'Sullivan (S.D.Fla. August 9, 2016)

The Court rejected the defendant's motion to strike plaintiff's liability expert finding that the expert's inability to properly test the subject stairs due to a change in their condition does not automatically render his methodology unreliable. The expert could rely on publicly available data and studies to support his opinions. Based on the expert's experience the Court ruled he could also testify regarding the material of the plaintiff's shoes and its slip resistance. Although not an expert on the specific subject, the witness was also able to testify as a lay witness as to his experience of pressure cleaning teak decks and the effect of the same. The expert was also allowed to testify as to the concavity of the stairs after he poured water on the steps and

measured and photographed them to determine they hold water.

Plaintiff's medical experts were allowed to testify because it was shown that they considered the plaintiff's medical history and other probably factors causing her symptoms. Their opinions were not based on temporal proximity alone.

In light of his experience, the plaintiff's psychiatrist was allowed to testify regarding the probable cause of the knee pain and its relationship to depression. Although not an expert in psychology or orthopedics, the Court examined his qualifications in light of the subject matter and ruled that a witness who possess general knowledge of a subject may qualify as an expert despite the lack of specialized training or experience so long as his testimony would.

Geyer v. NCL (Bahamas) Ltd., 2016 WL 4576041 (S. D.Fla. August 26, 2016)

Relying on the doctor's experience, the Court found that his opinions based solely on the review of medical records was sufficiently reliable and denied the defendant's motion to strike. The Court also refused to strike the doctor's opinion about the plaintiff needing additional surgeries, which was first revealed after the disclosure deadline at his deposition. The doctor changed his opinion based on new medical records not available when he wrote his report. Although untimely it was not prejudicial as the defendant still had several months to consult with its own expert before trial and could still effectively cross examine the expert.

Experts

Leibel v NCL (Bahamas) Ltd., -- F.Supp.3d -- 2016 WL 2621628 (S.D.Fla. 2016)

The Court denied the plaintiff's motion to

substitute their expert, where the expert quit after the scheduling order deadline, as the plaintiff failed to show both good cause and excusable neglect. The court found the expert's refusal to testify was entirely preventable due to counsel's failure to properly prepare her expert by giving him the necessary records and/or allowing him to examine the plaintiff.

Personal Jurisdiction

Brown v. Carnival Corporation, et.al, 2016 WL 4613385 (S.D.Fla. August 12, 2016)

The Court lacked both specific and general jurisdiction over the tour operator under Florida's Long Arm Statute. The Court found that the plaintiff failed to set forth factual evidence to rebut the tour operator's affidavits filed in support of its motion to dismiss. The Court further denied the plaintiff's request to engage in jurisdictional discovery it should have done prior to filing suit. This case is on appeal.

Pleading Requirements

Cubero v. Royal Caribbean Cruises, Ltd., 2016 WL 4270216 (S.D.Fla. August 8, 2016)

The plaintiff's complaint alleges negligence premised, in part, on cruise line's failure to maintain and monitor security cameras. Defendant moved to dismiss claiming that no such duty exists under maritime law. Dismissal was denied as the issue of whether the defendant owes a specific legal duty is more properly addressed at later stages of the litigation and the Court would not engage in the striking of alleged duties in a line-item fashion.

Under DOHSA to state a claim for loss of nurture and guidance, the plaintiff must allege very specific facts as to how the decedent's guidance had a pecuniary value beyond the irreplaceable values of companionship and affection. Merely alleging the decedent was living with and providing care to his mentally challenged daughter and son battling leukemia was not enough.

H.S. v. Carnival Corporation, 2016 U.S. Dist. LEXIS 73373 (S.D.Fla. 2016)

Dismissal granted in case where minor passenger voluntarily left the teen night club and was subsequently sexually assaulted by two other minors in their cabin after becoming intoxicated. The Court ruled the complaint failed to allege sufficient facts to establish the cruise line breached its duty of care, i.e. the cruise line was aware of some unruly behavior. Fraudulent inducement must be pled with specificity, and plaintiff may not rely solely on promotional literature saying the teen programming was

otherwise "age appropriate, professionally supervised, and safe." Similarly, plaintiff cannot state a cause of action for fraudulent concealment for alleged deliberate concealment regarding sexual assaults when promotion literature said that cruising was "safe" and sexual assaults are "uncommon." Since there were no allegations of the time or place of these statements, the particularity requirements for pleading fraud claims were not met.

Punitive Damages

Warren v. Shelter. Mutual Ins., 2016 La. App. LEXIS 1319 (3rd Cir. 2016)

The Appellate Court upheld a jury award of \$125,000 in compensatory damages and \$23,000,000 in punitive damages. Confirming that punitive damages are available to non-seafarers under general maritime law.

Vairma v. Carnival Corp., 15-20724-CIV-Seitz/Turnoff (S.D.Fla. March 9, 2016) *motion reh. den.* 2016 WL 2742400 (S.D.Fla. May 10, 2016)

Summary Judgment entered striking the plaintiff's claim for punitive damages. While punitive damages are recoverable in a maritime negligence claim, the defendant's actions did not amount to willful, wanton, and outrageous conduct. In concluding that the award of punitive damages was not found to be excessive, the Court looked at (1) the reprehensibility of the conduct, (2) the proportionality of punitive damages to compensatory damages finding that there is no mathematical bright line, and (3) comparison to similar civil or criminal penalties that could be imposed.



Brown v. Carnival Corporation, et.al. 2016 WL 4613385 (S.D.Fla. August 12, 2016)

Passenger was injured while participating in a shore excursion offered by the cruise line. The Court ruled that the plaintiff failed to properly state a cause of action for negligence where she failed to plead sufficient facts as to how the cruise line knew or should have known of a dangerous condition. Plaintiff was required to identify the dangerous condition and how the cruise line had knowledge of it. Conclusory statements that there had been prior incidents without more is insufficient. The plaintiff also failed to plead sufficient facts to state a cause of action for apparent agency, joint venture and third party beneficiary. The Court refused to consider the passenger ticket contract as it would not consider the tour operator an independent contractor merely because the cruise line calls them that. The plaintiff was granted leave to amend her complaint.

Statute of Limitations

Chang v. Carnival Corporation, -- F.3d --, 2016 WL 5845681, 2016 U.S. Dist. LEXIS 58456181 (11th Cir. 2016)

Equitable tolling did not apply where the cruise line warned the plaintiff that it intended to enforce the forum selection clause. For equitable tolling to apply, plaintiff must show the state court possessed subject matter jurisdiction concurrently with federal jurisdiction; state suit was dismissed solely on the ground of improper venue; the defendant was aware prior to the expiration that the plaintiff intended to file suit; and plaintiff was entitled to believe that his state filing might be sufficient given the fact that defendants can, and often do, waive their defense of improper venue.



Newell v. Carnival Corporation, 2016 WL 1718249, 2016 U.S. Dist. LEXIS 568895 (S.D. Fla. 2016)

The plaintiff erroneously filed her claim in state court. Forty-days after the complaint was filed and two days after the one year statute of limitation, the defendant moved to dismiss for improper venue. The motion was granted and affirmed by the Third DCA. The plaintiff then filed in federal court and the defendant again moved to dismiss the action as time barred. The Court ruled that equitable tolling applied because the state court had subject matter jurisdiction and the dismissal was based on a technical defense, venue. Further, the plaintiff diligently pursued her claim and acted in good faith.

Veverka v. Royal Caribbean Cruise Ltd., 2016 U.S. App. LEXIS 8806 (3rd Cir. 2016)

Appellate Court upheld the granting of a summary judgment where the plaintiff failed to file suit within the one year statute of limitation set forth in her ticket contract.

Summary Judgments

Aponte v. Royal Caribbean Cruises, Ltd., - F. Supp. 3d - (S.D. Fla. 2016)

Plaintiff slipped and fell on a puddle of liquid soap in a public restroom. Court granted defendant's motion for summary judgment as the plaintiff could not establish notice. The plaintiff presented no evidence as to how long the soap was on the floor as the record was devoid of any evidence of dirt, tracks, or footprints in the puddle prior to plaintiff's fall nor could the plaintiff show that the puddle was on the ground while a crewmember was in the restroom. Merely alleging how long the puddle may have existed was speculation. The Court also found that the puddle was an open and

obvious condition so the cruise line had no duty to warn.

Bujarski v. NCL (Bahamas) Ltd., 2016 WL 3947609 (S.D. Fla. 2016)

While a plaintiff need not show notice where the cruise line created the dangerous condition, this only applies where there is an overt act of the shipowner. The mere emergence of a foreign substance, such as a puddle of water, is not sufficient and the plaintiff must show actual or constructive notice.

Frasca v. NCL (Bahamas) Ltd., 14-11955 (11th Cir. June 30, 2016)

The Court found that while a reasonable person may perceive that a deck's surface would likely be more slippery than usual as a



result of the weather conditions, it does not mean that he could determine how slippery it actually was. A jury could credit the expert's testimony and conclude the deck's visible wetness and weather conditions would not alert a reasonable observer to the extent of the slipperiness. The lower court erred in granting summary judgment.

Galarza v. Carnival Corporation, 15-24380-CIV-Altonaga/O'Sullivan (S.D.Fla. August 9, 2016)

Motion for summary judgment denied where a plaintiff slipped and fell on exterior steps that she knew were wet. Court found that she raised a genuine issue of material fact as a jury may determine the steps were unreasonably slippery, dangerous, and this danger would not have been obvious to an individual utilizing her normal faculties.



Plaintiff established notice by showing the cruise line created, knew, or should have known about the danger because of similar prior accidents occurring in a substantially similar area. The Court noted that substantially similar does not require identical circumstances but allows for some play in the joints depending on the scenario presented and the desired use of the evidence.

Jaber v. NCL (Bahamas) Ltd., 2016 WL 853018 (S.D.Fla. March 2, 2016)(King)

Partial summary judgment on liability granted in the plaintiff's favor where a bunk bed missing a securing pin fell and struck the plaintiff. Court ruled there can be liability for negligence when the absence of a precautionary measure creates an unreasonable risk. Notice was established because there were six other bunks that fell on the same ship. The plaintiff need not show that specific bunk was faulty.

Kressly v. Oceania Cruises, Inc., 15-23603-CIV-Moore (S.D.Fla. October 3, 2016)

Slip and fall in adverse weather. The cruise line owed a duty of reasonable care and not a heightened duty of care as urged by the plaintiff due to the circumstances peculiar to the maritime context. Court clarified that where the risk is greater because of high seas, an increased amount of care and precaution is reasonably owed. Summary judgment granted where the plaintiff failed to provide evidence that the route selected was unreasonable or the cruise line was on notice of the severity of the bad weather it encountered.

Salazar v. Norwegian Cruise Line Holding, Ltd., 2016 U.S. Dist. LEXIS 67395 (S.D. Fla. 2016)

Summary judgment granted where the Court found that wet substance on the dance floor was an open and obvious condition, and there was no duty to warn. The plaintiff admitted seeing passengers drinking and dancing. The Court ruled it would be obvious to a reasonable person that the dance floor had the potential to be slick due to the possibility of someone spilling a drink. In addition, there were strobe lights which would allow a reasonable person, through the use of his senses, to observe the wet nature of the floor. Alternatively, the plaintiff could not establish notice because he could not show what the liquid was, how it got there, how long it was there, and did not know of the presence of a crewmember assigned to the area.

Virgilio v. NCL (Bahamas) Ltd., 15-21962-CIV-Scola (S.D.Fla. August 17, 2016)

Denial of the defendant's summary judgment motion where the plaintiff was able to produce evidence that the cruise line was involved in the design of the flooring. Therefore defendant would have had knowledge of the dangerous condition, i.e. too low coefficient of friction when the floor was wet. The plaintiff was also able to show substantially similar incidents of water backing up in restrooms. The Court found there was sufficient evidence for a reasonable juror to conclude that defendant was on notice of a dangerous condition that the floor could be wet despite normal operation of the bathrooms, and could slip and fall if no action was taken by the cruise line.

Crewmember Claims

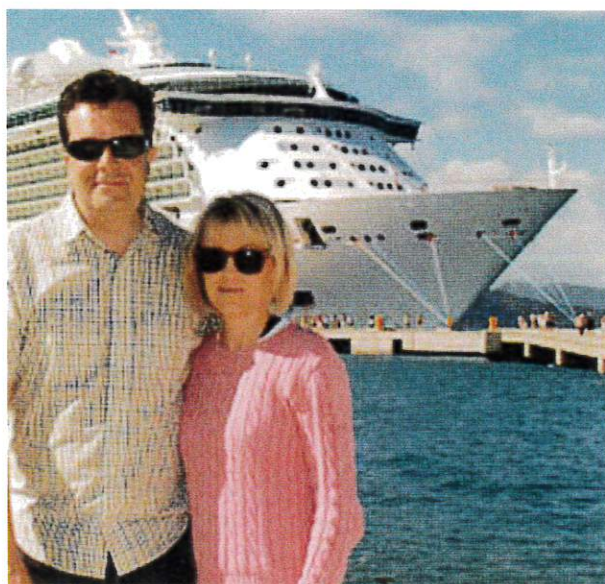
Arbitration

Alberts v. Royal Caribbean Cruises, - F.3d- (11th Cir. 2016), 2016 WL 4437557, 2016 U.S. App. LEXIS 15502 (11th Cir. 2016)

A United States citizen working as a crewmember brought an action, challenging the cruise line's arbitration provision requiring him to arbitrate his claims abroad. The crewmember argued that because he only worked in international waters, and not in one or more foreign states, his contract did not envisage performance abroad. In rejecting this argument, the Court ruled that performance abroad includes the seaman's work traveling to and from a foreign country.

Suazo v. NCL (Bahamas) Ltd., 2016 U.S. App. LEXIS 8575 (11th Cir. 2016)

Issue of first impression as to whether an injured cruise ship employee can bar



arbitration by showing that the high costs may prevent him from effectively vindicating his federal statutory rights in the arbitral forum. While normally such a public policy issue should be raised after the arbitration, the Court found that in this case the plaintiff failed to establish the costs of the arbitration would preclude him from arbitrating his federal statutory claims. In this instance, the CBA agreement provided that if he was represented by the Norwegian Seafarer's Union, the cruise line would bear the entire cost. The CBA was silent as to who would have to bear the costs if the crewmember chose to obtain independent counsel. Having chosen to use independent counsel, he must deal with the consequences. The Court further noted that even where the contract requires the splitting of the fees, it is still insufficient as the employer could pay the initial costs and then seek reimbursement from the crewmember later.

Choice of Law

Fox v. Holland Am. Line, Inc., 2016 WL 1258389, 2016 U.S. LEXIS 44145, (E.D.Wa. March 31, 2016)

The Court rejected the choice of law in the party's contract as void under Section Five of FELA. The application of BVI law would force plaintiff to forgo her Jones Act claims and allow the defendants to evade liability. Applying the *Lauritzen* test the Court ruled U.S. law applies where there is an American plaintiff who was hired in California by a company registered in Washington and conducting business in the U.S.

Intentional Infliction of Emotional Distress

Bobola v. F/V Expectations, et.al., 2016 WL 4599901 (U.S.D.C. Mass. September 9, 2016)

Nothing under the Jones Act prevents a crewmember from bringing an individual claim against the vessel's captain for negligence or wilful misconduct. Allegations involving extreme or outrageous threats, such as death threats, can be sufficient to state a claim for Intentional Infliction of Emotional Distress. Liability cannot be predicated upon mere insults, indignities, threats, annoyances, petty oppressions, or other trivialities. The crewmember must still show he suffered physical symptoms arising from the alleged emotional distress.



TRIAL RESULTS

Loftus v. Horizon, Inc., and Matson, ALJ No.: 2014-SPA-004 (Boston, MA July 16, 2016)

Finding a clear violation of the Seaman Protection Act (SPA) 46 U.S.C. § 2114(a), a U.S. Department of Labor Administrative Law Judge awarded a former Horizon Line master over \$1,000,000 after he was discharged for reporting safety violations. The claimant proved, by a preponderance of the evidence, that he engaged in a protected activity by threatening to report and then actually reporting to the USCG what he believed were safety violations. The Judge further found that the shipowner knew of the claimant's protected activity and that his protected activity was a contributing factor in the shipowner's decision to take adverse action against him.

Golden v. Carnival Corporation, 14-24899-CIV-Lenard/Goodman (S.D.Fla. June 10, 2016)

The jury returned a verdict for the defendant where the plaintiff alleged he burnt his feet on a deck that became excessively hot in the sun.

Higgs v. Costa Crociere S.p.A. Company, 15-60280-CIV-Cohn/Seltez (S.D. Fla. March 4, 2016)

The plaintiff tripped and fell over a cleaning bucket and injured her shoulder. The jury returned a verdict of \$1,316,326.01 finding the defendant 85% negligent. The Court denied the defendant's motion for a new trial or in the alternative remittitur of the non-economic damages as they were allegedly excessive in light of the evidence.

Jaber v. NCL (Bahamas) Ltd., 14-20158-CIV-King (S.D.Fla. June 20, 2016)

The plaintiff sought \$2,800,000.00 in damages alleging she suffered a mild traumatic brain injury when she was struck in the head by a bunk bed that fell spontaneously. Defense counsel challenged the findings of the plaintiff's medical expert and the Court ultimately determined that his opinion was not credible and was made without reference to the plaintiff's medical history. Following a bench trial the Court awarded her \$9,054.50 in damages.

Kellner v. NCL (Bahamas) Ltd., 2016 WL4440501, (S.D. Fla. August 22, 2016)

Directed verdict granted. The plaintiff failed to introduce any admissible evidence of medical causation at trial nor did she establish that she suffered any damages as a result of the defendant's negligence. Expert testimony is required to establish medical causation for conditions not readily observable or susceptible to evaluation by lay persons.

Tindle v. Hunter Marine Transport, Inc., 2016 U.S. Dist. LEXIS 66419 (W.D. KY 2016)

Crewmember died of an acute asthma attack. Vessel owner was liable even though there were no outward appearances to suggest crewmember was ill and the crewmember refused offers to disembark. The Court ruled that under its maintenance and cure obligation the captain of a vessel has a duty to ensure proper medical care and to evacuate a crewmember whether or not he wants to get off the vessel. Jury entered an award of \$1,777,214.00.

Trapani v. Royal Caribbean Cruises Ltd., 2015 Jury Verdicts LEXIS 9398 (November 6, 2015)

Crewmember alleged that due to the cruise lines failure to provide prompt, adequate, and appropriate medical care she suffered an

angiomyolipoma tumor, which went undiagnosed and eventually ruptured. She further alleged that at no time did she know or have reason to know that she suffered from this condition until her injury. The cruise line argued that the crewmember's injuries were a result of intervening and unforeseeable causes for which it had no duty to warn. In addition, the plaintiff failed to exercise ordinary care and caution for her welfare which directly contributed to her injuries. After a five day trial the jury found the cruise line 100% liable and awarded the plaintiff \$1,991,149.00.

Weeks Marine Inc. v. Watson, 15-00600-CIV-Barbier (E.D.La. May 27, 2016)

Bench trial involving a crewmember who was injured when a steel table toppled over in rough seas and claiming punitive damages for failure to pay maintenance and cure. Ship owner filed Declaratory Judgment seeking declaration it did not owe maintenance and cure. The plaintiff was able to show a causal connection between his injury and the unseaworthiness of the vessel. Further, the shipowner arbitrarily refused to pay maintenance and cure by intentionally

ignoring and rejecting the opinions of subsequent treating physicians who disagreed with the findings of its own expert. Crewmember awarded \$1,139,828 plus the payment of maintenance and cure until MMI.

SUBMIT ARTICLES TO:
CFINKLEHOFF@LIPCON.COM

NEXT MEETING
MAY 2017
NEW YORK

Committee Members

Carol L. Finklehoffe
Lipcon, Margulies, Alsina &
Winkleman, P.A.
2 S. Biscayne Boulevard
Suite 1776
Miami, Florida 33131
305-373-3016
Cfinklehoffe@lipcon.com
Committee Chair

Suzanne B. Vazquez
Carnival Cruise Lines
3655 N.W. 87th Avenue
Miami, Florida 33178
305-406-6628
SVazquez@Carnival.com
Committee Vice Chair

Carlos F. Llinás Negret
Nelson & Frankel LLP
707 Wilshire Blvd, Suite 3600
Los Angeles, California 90017
213-622-6469
CLlinas@nflawfirm.com
Committee Secretary