

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

In re:

COMPLEX BUSINESS LITIGATION
DIVISION

CRYSTAL CRUISES LLC, a California
limited liability company,

Case No. 2022-002742-CA-01
Lead Case

CRYSTAL HOLDINGS U.S., LLC, a
Delaware limited liability company,

Case No. 2022-002757-CA-01

CRYSTAL AIRCRUISES, LLC, a Florida
limited liability company, and

Case No. 2022-002758-CA-01

Assignors,
To:

(Jointly Administered Cases)

MARK C. HEALY,

Assignee.

ASSIGNEE'S OBJECTION TO CLAIM OF JELENA FILIPOVIC

NOTICE OF OPPORTUNITY TO OBJECT AND REQUEST FOR HEARING

PLEASE TAKE NOTICE that, Pursuant to section 727.111(4), Florida Statutes, the assignee may disallow improper claims of creditors, and the Court may consider these actions without further notice or hearing unless a party in interest files an objection within 21 days from the date this paper is served. If you object to the relief requested in this paper, you must file your objection with the Clerk of the Court of Miami-Dade County at 73 W. Flagler Street, Room 133, Miami, FL 33130, and serve a copy on the assignee's attorney, Paul N. Mascia, Esq., Nardella & Nardella, PLLC, 135 W. Central Blvd., Ste. 300, Orlando, FL 32801, and any other appropriate person.

If you file and serve an objection within the time permitted, the Court shall schedule a hearing and notify you of the scheduled hearing.

If you do not file an objection within the time permitted, the assignee and the Court will presume that you do not oppose the granting of the relief requested in the paper.

COMES NOW, Mark C. Healy, Assignee in the above-captioned Assignment proceeding (the “Assignee”), pursuant to Section 727.113 and 727.109(4), files this Objection to Claim of Jelena Filipovic (“Filipovic” or “Claimant”), and asserts as follows:

BACKGROUND

1. On February 10, 2022, the Crystal Cruises, LLC (the “Assignor”) executed and delivered, and the Assignee accepted, an irrevocable Assignment for the benefit of creditors to the Assignee (the “Assignment”). On February 11, 2022, a *Petition Commencing Assignment for the Benefit of Creditors* was filed by the Assignee for the Assignor, thereby commencing the following assignment for the benefit of creditors case pursuant to Chapter 727 of the Florida Statutes, in this Court: *In re Crystal Cruises LLC*, Case No. 2022-002742-CA-01 (the “Assignment Case”).

2. Prior to the Assignment, Assignor engaged in the business of travel and entertainment business, including operating ocean, river, and expedition cruises and conducting related activities around the world (the “Business”).

3. The Assignee's address and telephone number are c/o Paul N. Mascia, Esq., Nardella & Nardella, PLLC, 135 W. Central Boulevard, Orlando, Florida 32801 and (407) 966-2680.

4. Pursuant to § 727.112(2), *Florida Statutes*, all proofs of claims shall be filed by delivering the claims to the Assignee within 120 days from the filing of the Assignment.

5. In this case, all claims were required to be filed by June 11, 2022 (the “Bar Date”).

6. This Honorable Court has the power to allow or disallow claims against the estate and determine their priority. *See* § 727.109(4), *Florida Statutes*.

OBJECTION TO CLAIM

7. Filipovic delivered her claim No. 2511 in the amount of \$1,500,000.00 (the “Claim”) via email to the Assignee on March 30, 2022, a true and correct copy of which Claim is attached hereto as Exhibit “A”.

8. The Assignee has reviewed the Claim and has determined that Filipovic’s claim is due to a personal injury claim alleged against Assignor. The amount put forth in the claim is not supported by documentation provided and as such, Assignee objects to the amount of Filipovic’s claim.

9. The Claimant filed a Complaint in the United States District Court Central District of California Case No: 2:19-cv-09281, *Filipovic v. Crystal Cruises*, whereby Filipovic alleged the same the case was dismissed for lack of prosecution. Claimant failed to obtain a judgment or ruling by a court, supporting a claim amount prior to Assignors assignment and as such, cannot now support her Claim.

WHEREFORE, the Assignee respectfully requests the Court enter an order sustaining his Objection to Enterprise’s Claim, DENYING the Claim in its entirety and granting any such further relief that this Court may deem just and proper.

DATED this 8th day of December 2023.

NARDELLA & NARDELLA, PLLC
Co-General Counsel for Assignee
135 W. Central Blvd., Ste. 300
Orlando, FL 32801
(407) 966-2680

By: /s/ Paul N. Mascia

Michael A. Nardella, Esq.

Florida Bar No. 051265

Paul N. Mascia, Esq.

Florida Bar No. 0489670

mnardella@nardellalaw.com

pmascia@nardellalaw.com
kcooper@nardellalaw.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via the Florida Court's e-Filing Portal on December 8th, 2023, which will serve upon all parties and interested persons of record in this action; on claimant Jelena Filipovic via email at cfinklehoffe@lipcon.com and mwinkleman@lipcon.com and U.S. mail to One Biscayne Blvd, Miami, FL 33131; and via email to cbl44@jud11.flcourts.org pursuant to CBL Rule 2.2.

By: /s/ Paul N. Mascia
Paul N. Mascia

EXHIBIT “A”

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT,
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

In Re:

CRYSTAL CRUISES, LLC
a California Limited Liability company.

2511

Assignor,

Case No.: 2022-002742 CA 01

To:

MARK C. HEALY,

Assignee,



PROOF OF CLAIM

TO RECEIVE ANY DIVIDEND IN THIS PROCEEDING, YOU MUST COMPLETE THIS PROOF OF CLAIM AND DELIVER IT TO THE ASSIGNEE NO LATER THAN:

JUNE 11, 2022

THE ASSIGNEE'S NAME AND ADDRESS ARE AS FOLLOWS:

Mark C. Healy, Assignee
MICHAEL MOECKER & ASSOCIATES, INC.
1885 Marina Mile Blvd., Suite 106
Fort Lauderdale, FL 33315
(954) 252-1560 • (954) 252-2791 Fax No.
Info@Moecker.com

1. CREDITOR NAME (Your name):
ADDRESS:

Jelena Filipovic - c/o Carol Finklehoffe, Esq.
Lipcon Margulies, Winklerman
2 S. Biscayne Blvd, suite 1776
Miami, FL 33131
305-373-3016
cfinklehoffe@Lipcon.com; smatus@Lipcon.com
Please be sure to notify us if you have a change of address.

TELEPHONE NUMBER:
E-MAIL ADDRESS:

2. BASIS FOR CLAIM:

- Goods Sold
- Wages, Salaries and Compensations
- Secured Creditor
- Services Performed
- Taxes
- Money Loaned
- Shareholder
- Other: _____

3. DATE DEBT WAS INCURRED:

NOV. 12, 2018

4. AMOUNT OF CLAIM:

\$1,500,000

5. SUPPORTING DOCUMENTS: Attach copies of supporting documents, such as promissory notes, purchase order, invoices, itemized statement of running accounts, court judgments, or evidence of security interests. If the documents are not available, explain. If the documents are voluminous, attach a summary. please see attached.

6. SIGNATURE: Sign and print name and title, if any, of the creditor or other person authorized to file this claim:

DATED: 3.30.22

BY: Carol Finklehoffe
Signature of Claimant or Representative

Carol Finklehoffe
Print Name and Title Here attorney for Jelena Filipovic.

IN THE CIRCUIT COURT OF THE 11th
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

CIRCUIT CIVIL DIVISION

CASE NO. 2022-002742-CA-01

SECTION: CA 44
COMPLEX BUSINESS LITIGATION

In re:
CRYSTAL CRUISES, LLC,

Assignor,

To:

MARK C. HEALY

Assignee.

NOTICE OF APPEARANCE AND DESIGNATION OF EMAIL ADDRESS ON BEHALF
OF CREDITOR JELENA FILIPOVIC

Please take notice that Michael Winkleman, Esq. and Carol L. Finklehoffe, Esq. of the law firm of LIPCON, MARGULIES & WINKLEMAN, P.A. hereby enter their appearance as counsel for record for creditor JELENA FILIPOVIC. In furtherance thereof, the undersigned counsel hereby designates the following email addresses for service of all pleadings, orders, and other documents in the above-styled action:

Primary Address: mwinkleman@lipcon.com

Secondary Address: cfinklehoffe@lipcon.com

Secondary Address: smatus@lipcon.com

Dated: March 25, 2022

LIPCON, MARGULIES,
& WINKLEMAN, P.A.
Attorneys for Plaintiff
One Biscayne Tower, Suite 1776
2 South Biscayne Boulevard
Miami, Florida 33131

Telephone: (305) 373-3016
Facsimile: (305) 373-6204

By: /s/ Carol L. Finklehoffe
CAROL L. FINKLEHOFFE
FBN: 0015903
cfinklehoffe@lipcon.com
MICHAEL A. WINKLEMAN
FL BAR NO 36719
mwinkleman@lipcon.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing document has been furnished upon all counsel of record and parties via Florida Courts E-Filing Portal System on this 25th day of March, 2022.

By: /s/ Carol L. Finklehoffe
CAROL L. FINKLEHOFFE
FBN: 0015903

Norma Castellon

From: info @Moecker.com
Sent: Tuesday, April 05, 2022 2:31 PM
To: Norma Castellon
Subject: FW: Jelena Filipovic v. Crystal Cruises - Case no.: 2022-002742-CA 01
Attachments: Notice Of Appearance (filed).pdf; Jelena Filipovic - proof of claim form.pdf; Addendum to Proof of Claim.pdf; Second Amended Statement of Claims - with Foreign law.pdf

From: Carmen Cruz
Sent: Thursday, March 31, 2022 9:17 AM
To: info @Moecker.com <info@moecker.com>
Subject: FW: Jelena Filipovic v. Crystal Cruises - Case no.: 2022-002742-CA 01

Please confirm receipt.

 **Carmen Cruz**
Paralegal
D: (305)714-4396
bergersingerman.com

From: Paul Steven Singerman <Singerman@bergersingerman.com>
Sent: Wednesday, March 30, 2022 7:22 PM
To: Samuel J. Capuano <SCapuano@bergersingerman.com>; Carmen Cruz <CCruz@bergersingerman.com>
Subject: FW: Jelena Filipovic v. Crystal Cruises - Case no.: 2022-002742-CA 01

Sam-there was a typo in your name below.

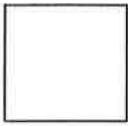
 **Paul Steven Singerman**
D: (305)714-4343
bergersingerman.com

From: Carol Finklehoffe <cfinklehoffe@lipcon.com>
Sent: Wednesday, March 30, 2022 3:20 PM
To: Paul Steven Singerman <Singerman@bergersingerman.com>; scapuono@bergersingerman.com
Cc: notices@moecker.com; info@moecker.com
Subject: FW: Jelena Filipovic v. Crystal Cruises - Case no.: 2022-002742-CA 01

[External E-mail]

In an abundance of caution I am forwarding you a copy of the below.

Sincerely,



Carol Finklehoffe

Attorney at Law

**LIPCON, MARGULIES & WINKLEMAN,
P.A.**



One Biscayne Tower, Suite 1776
2 S. Biscayne Blvd.
Miami, FL 33131
[Directions](#)



P: [\(305\) 373-3016](tel:3053733016) D: [\(786\) 800-5449](tel:7868005449)
or [\(800\) 838-2759](tel:8008382759) x239 M: [\(305\) 926-6620](tel:3059266620)
F: [\(305\) 373-6204](tel:3053736204)



cfinklehoffe@lipcon.com
www.lipcon.com



[Executive Summary](#)

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From: Carol Finklehoffe
Sent: Wednesday, March 30, 2022 2:20 PM
To: 'info@moecker.com' <info@moecker.com>
Cc: Samuel Matus <smatus@lipcon.com>
Subject: Jelena Filipovic v. Crystal Cruises - Case no.: 2022-002742-CA 01

Dear Sir/Madam:

The undersigned represents Ms. Jelena Filipovic for serious personal injuries she suffered while a crewmember working for Crystal Cruises.

Attached please find:

1. Notice of Appearance;
2. Proof of Claim form and Addendum;
3. Second Amended Statement of Claims (submitted in the Arbitration);

Dropbox link to exhibits:

https://www.dropbox.com/sh/e7gp32rde4fwjjs/AADxFbv-NWYLeW_gVcFpZMmpa?dl=0

Please let me know if you require any further information and documentation.

Sincerely,



Carol Finklehoffe
Attorney at Law

**LIPCON, MARGULIES & WINKLEMAN,
P.A.**



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2 S. Biscayne Blvd.
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P: [\(305\) 373-3016](tel:(305)373-3016)
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F: [\(305\) 373-6204](tel:(305)373-6204)

D: [\(786\) 800-5449](tel:(786)800-5449)
M: [\(305\) 926-6620](tel:(305)926-6620)



cfinklehoffe@lipcon.com
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[Executive Summary](#)

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AMERICAN ARBITRATION ASSOCIATION
INTERNATIONAL CENTRE FOR DISPUTE RESOLUTION

ICDR CASE NO.: 01-20-0015-6312

JELENA FILIPOVIC,

Claimant,

v.

CRYSTAL CRUISES, LLC;
INTERNATIONAL CRUISE
SERVICES LTD (BAHAMAS)
CRYSTAL CRUISES MANNING AS,

Respondents.

SECOND AMENDED STATEMENT OF CLAIMS¹

Claimant sues Respondents and alleges:

1. Claimant reserves the right to amend her Statement of Claims at any time before the final arbitration of her claims.
2. At all times material hereto, Respondents CRYSTAL CRUISES, LLC, INTERNATIONAL CRUISE SERVICES LTD, CRYSTAL CRUISES MANNING AS (collectively "CRYSTAL" or "Respondents"²) owned, operated, managed, maintained and/or controlled the vessel *Crystal Serenity* and employed the Claimant. This vessel was registered in a flag of convenience country. **[Exhibits 1, 18]**
3. At all times material hereto, Claimant was employed as a seaman and was a member of the crew aboard *Crystal Serenity* in its service in the capacity of bar waitress. **[Exhibits 1-3,**

¹ Amended to include exhibit references

² Each count against collectively referring to the Crystal entities which are Respondents in this case, should be considered as being alleged separately and distinctly against named Respondent..

5, 14-15, 18-19]

4. Insofar as Claimant was not formally employed by any of the CRYSTAL entities, the Claimant was a borrowed servant, subject to their control.³
5. At all times material hereto, the *Crystal Serenity* was in navigable waters. **[Exhibits 5-7, 18]**
6. At all times material hereto, the Claimant worked and lived aboard the vessel. **[Exhibits 5, 18]**
7. Prior to signing aboard the vessel, Claimant was required to undergo a pre-employment physical and was found “fit for duty” with no restrictions. **[Exhibits 4, 5, 18]**
8. On or about November 12, 2018, Claimant was injured while performing her duties as a bar waitress when she was ordered to restock the bar area and was required to repeatedly carry heavy items without proper assistance or equipment for doing so. **[Exhibits 5-6, 8-12, 16-18]**
9. Shortly after her incident, Claimant reported her injuries to the shipboard medical personnel but was denied proper, timely and/or adequate medical care. Over the next two weeks Claimant was given pain medication to mask her symptoms and was instructed and/or required to return to work while on the pain medication. This exacerbated and worsened her condition. Claimant’s request for a shoreside evaluation with a specialist was refused. **[Exhibits 5, 6, 18]**
10. On or about November 25, 2018, the shipboard physician diagnosed Claimant with

³ It is well established that a seaman may have and allege more than one employer for purposes of the Jones Act. *See Spinks v. Chevron Oil Co.*, 507 F.2d 216 (5th Cir. 1975) “[A] seaman may have more than one Jones Act employer. . . . The defendants can sort out which between them will bear the final cost of recovery, either through common law indemnity or contribution principles, or contractual provisions”)

“cervico – brachialgia L side” and “pain L shoulder” with complaints of “left sided neck pain which radiated to her elbow.” On November 28, 2018, the shipboard physician provided the Claimant with a Crew Medical Referral Appointment Request wherein he stated Claimant had a preliminary diagnosis of “left shoulder pain” and she was to be seen by an orthopedic surgeon “for further evaluation and treatment.” **[Exhibits 5, 6, 18]**

11. Although the Claimant was injured while performing her duties in the service of the vessel and she was provided the Claimant with a Crew Medical Referral Appointment Request wherein she was referred to an orthopedic surgeon for evaluation and treatment, upon instruction of the ship’s manager Claimant was not medically signed off but was forced, over her objection, to sign off for “early vacation.” Once home Claimant continued to dispute the improper “early vacation” sign-off. **[Exhibits 5, 6, 11-12, 16, 18]**

12. Upon her return home Claimant sought medical care and underwent an MRI and EMG study which showed she was suffering from : (a) disc herniation/protrusion at the C5-C6 level; (b) disc herniation more prominent at the C6-C7 level; and (c) neurogenic lesions at the C5-C7 level. As a result of her shipboard injuries Claimant was required to undergo anterior cervical discectomy and fusion (ACDF) at the C6-C7 level and implantation of a prosthetic disc. **[Exhibits 5, 8, 11-12, 18]**

13. Surgery did not resolve her symptoms and further care is required, including a second surgery, which the Respondents have refused/failed to provide. Respondents further failed to timely provide Claimant with all recommended medical care and therapy, causing significant delays in her treatment thereby aggravating and worsening her condition. **[Exhibits 5, 8, 11-12, 18]**

14. After improperly forcing the Claimant to sign off for early vacation, rather than on medical,

Respondents refused to provide her sick wages and her complete and full maintenance and cure benefits as required under the law and in accordance with her Employment Contract. For over two years, and despite repeated requests, Respondents refused to provide Claimant with her sick wages, maintenance, and reimburse her for her out-of-pocket expenses related to her medical care. Claimant was forced to borrow money and survive off the charity of family and friends. Only after Claimant retained counsel did Respondents finally pay her past owed sick wages, maintenance and reimburse her out-of-pocket expenses related to her medical care. [Exhibits 5, 11-13, 16, 18, 20]

15. Claimant continues to treat and has not been found to be at Maximum Medical Improvement. [Exhibits 5, 8, 11-12, 18]

16. Claimant's damages are continuing and permanent in nature. [Exhibits 5, 8, 11-12]

CLAIMS UNDER BAHAMIAN LAW

COUNT I – NEGLIGENCE UNDER BAHAMIAN AND COMMON LAW

Claimant re-alleges, adopts, and incorporates by reference paragraphs one (1) through sixteen (16) as though they were originally alleged herein.

17. Under Bahamian law, an employer is liable in negligence for a workman who is injured by breach of common law duties to provide competent staff of men, adequate plant and equipment, and a safe system of working with effective supervision. *See Flower v. Ebbw Vale Steel, Iron and Coal, Co., Ltd.* [1934] 2 KB 132, at 140; *Wilson and Clyde Coal Co. Ltd. v. English* (1938) A.C. 57. *See also* Gilbert Kodilinye, *Commonwealth Caribbean Tort Law*, Fifth Edition. This duty to provide their workmen with a safe place of work is stated as being "not merely to warn against unusual dangers known to them... but also to make the place of employment....as safe as the exercise of reasonable skill and care would

permit". *Id.*; *Latimer v. AEC Ltd.* [1953] AC 643 (the employer's duty was stated as one of reasonable care.).

18. Respondents through its employees, servants, agents and/or representatives acting within the course and scope of their employment, breached the foregoing duty owed to Claimant by committing the following acts and/or omissions including but not limited to:

- a. Failure to use reasonable care to provide and maintain proper and adequate machinery, crew and equipment;
- b. Failure to use reasonable care to provide Claimant with a safe place to work;
- c. Failure to promulgate and enforce reasonable rules and regulations to ensure the safety and health of the employees and more particularly the Claimant, while engaged in the course of her employment on Serenity;
- d. Failure to use reasonable care to provide Claimant a safe place to work due to:
 1. Failing to provide proper crew and/or device(s) to stock the bar area;
 2. Failing to provide Claimant with proper lifting devices and/or sufficient assistance to perform her job duties in a reasonably safe manner;
 3. Failing to have adequate policies and procedures to prevent bar wait staff from becoming injured while repeatedly lifting heavy objects;
 4. Requiring Claimant to lift and hold items which were too heavy for one person to safely lift and hold;
 5. Failing to provide Claimant with proper training and/or supervision with respect to repetitive heavy lifting;
 6. Failing to warn Claimant of the dangers of doing repetitive heavy lifting;
 7. Failing to provide adequate manpower to perform the work assigned to

Claimant;

8. Creating a working environment where crewmembers are discouraged and/ or unable to assist each other with duties;
 9. Creating a working environment where crewmembers are rushed to complete their duties;
 10. Requiring Claimant to continue repetitive heavy lifting and/or heavy lifting duties, despite her injury;
 11. Sending Claimant back to work on pain killers after her injury;
 12. Requiring Claimant to work with an injury;
 13. Creating a work environment where crewmembers are sent back to the true nature and extent of their injuries being determined; and/or
 14. Failing to warn Claimant of the dangers of working with an injury;
 15. Failing to warn Claimant of the dangers of working on pain killers while injured;
 16. Failing to properly diagnose and/or treat Claimant's injuries; and/or
 17. Failing to provide Claimant with prompt, proper and adequate medical treatment.
- e. Failure to provide adequate instruction and supervision to crewmembers and Claimant;
- f. Failure to provide prompt, proper, and adequate medical care to the Claimant when she sought medical attention for her condition;
- g. Failing to properly diagnose and treat the Claimant's condition;
- h. Failure to provide Claimant and other crewmembers who were associated with Claimant or Claimant's incident(s) giving rise to this action, reasonable hours of

employment so as to not overwork them to the point of not being physically fit to carry out their duties. Respondents' employees are overworked to the point of fatigue;

- i. Failure to learn and apply the common and well-known principles of industrial ergonomics and apply them on board the Serenity; and/or
- j. Failure to incorporate modern work methods, procedures, and material handling techniques on board the Serenity;
- k. Failure to properly train workers (such as Claimant to lift heavy objects) and to staff the proper amount of workers, which results in small/undersized work crews improperly doing jobs that are traditionally handled by larger crews;
- l. Failing to provide Claimant with mechanized aids commonly available in other industries and at comparable land based jobs;
- m. Failing to ascertain the cause of prior similar accidents/incidents so as to take measures to prevent their re-occurrence, and more particularly Claimant's accident;
- n. Failure to follow sound management practices with the goal of providing Claimant a reasonably safe place to work;
- o. Failure to investigate the hazards to Claimant before Claimant's incident(s) and then take the necessary steps to eliminate the hazards, minimize the hazard or warn Claimant of the danger from the hazard;
- p. Failure to adhere to the Seafarers' Hours of Work and the Manning of Ships Convention, 1996: with respect to the hours of work and rest as well as other standards such as ILO 147;
- q. Failed to select and utilize competent, skilled, and properly trained medical care

providers on board and shore side, having adequate expertise with which to provide the Claimant with prompt, proper and adequate medical care;

- r. Failure to provide Claimant with enough sleeping time so as to cause Claimant and the other crewmembers on the Serenity the same physical and mental impairments as being drunk. These type of impairments have been documented in the Journal of Occupational and Environmental Medicine; 57:649-655 (October 2000);
- s. Failure to properly medically manage Claimant's medical care after Claimant was injured and sought care; and/or
- t. Other acts or omissions constituting a breach of the duties owed to the Claimant which are revealed through discovery.

19. All of the above caused the Claimant to be injured and to not receive adequate care for her injuries.

20. Respondents, knew of the foregoing conditions causing Claimant's incident/accident and did not correct them, or the conditions existed for a sufficient length of time so that Respondents, in the exercise of reasonable care, should have learned of them and corrected them.

21. As a direct and proximate cause of the Respondents negligence, the Claimant was injured about her body and extremities, suffered extreme physical pain and suffering, mental anguish, reasonable fear of developing future physical and medical problems, loss of enjoyment of life, physical disability, impairment, inconvenience on the normal pursuits and pleasures of life, feelings of economic insecurity caused by disability, disfigurement, aggravation of any previously existing conditions therefrom, incurred medical expenses in the care and treatment of Claimant's injuries, suffered physical handicap, lost wages,

income lost in the past, and her working ability and earning capacity has been impaired.

22. The injuries and damages suffered by the Claimant are permanent or continuing in nature, and she will suffer the losses and impairments in the future.

23. In addition, Claimant, in the past and in the future, has lost the fringe benefits that come with Claimant's job, including but not limited to, free food, free shelter, free medical care, free uniforms, vacation, and free airline ticket home and back.

WHEREFORE, Claimant demands judgment against Respondent for damages, attorney's fees, costs and interest as permitted by law⁴.

COUNT II – BREACH OF DUTY TO PROVIDE MEDICAL CARE & MAINTENANCE

Claimant re-alleges, adopts, and incorporates by reference paragraphs one (1) through sixteen (16) as though they were originally alleged herein.

24. Merchant Shipping Act 1976 (Chapter 268, Statute Law of The Bahamas) ("the MSA") together with the Regulations thereunder and international maritime conventions adopted and incorporated therein give rise to a statutory duty of care owed by the owner of a ship to his master, seamen and apprentices.

25. Section 123 of the MSA provides a statutory duty for the Respondent to provide and bear the reasonable expense of surgical and medical treatment to a crewmember.

26. The Bahamas Maritime Authority Information Bulletin No. 148, issued on April 19, 2013, requires that the Respondent is liable to bear the costs of seafarers working on their ships in respect of sickness and injury of the seafarers occurring between the date of commencing duty and the date upon which they are deemed duly repatriated, or arising

⁴ Claimant is entitled to prejudgment interest pursuant to Statute Laws of the Bahamas, Chapter 80, Civil Procedure (Award of Interest) and/or Arbitration Act 2009, Rule 71, Interest. Claimant is also entitled to costs pursuant to the Rules of Civil Procedure 2013.

from their employment between those dates.

27. The Bahamas Maritime Authority Information Bulletin No. 148, issued on April 19, 2013, further requires the Respondent to defray the expense of medical care, including medical treatment and the supply of the necessary medicines and therapeutic appliances, and board and lodging away from home until the sick or injured seafarer has recovered, or until the sickness or incapacity has been declared of a permanent character. The Respondent is further liable to defray the expense of medical care and board and lodging may be limited to a period which shall not be less than 16 weeks from the day of the injury or the commencement of the sickness.
28. MLC Title 4 - Health Protection, Medical Care, Welfare and Social Security Protection, Regulation 4.2 – Shipowners’ Liability requires that the Respondent is liable to defray the expense of medical care, including medical treatment and the supply of the necessary medicines and therapeutic appliances, and board and lodging away from home until the sick or injured seafarer has recovered, or until the sickness or incapacity has been declared of permanent character.
29. Respondents failed to provide Claimant with prompt, proper and adequate medical care for her injuries. Respondents failed to provide Claimant with timely maintenance and cure benefits. Respondents failed to promptly authorize and/or provide medical care for Claimant. Respondents failed to promptly reimburse Claimant for out of pocket medical expenses.
30. Respondents through its employees, servants, agents and/or representatives acting within the course and scope of their employment breached the foregoing duty owed to Claimant by committing the following acts and/or omissions including but not limited to:

- a. Failure to use reasonable skill and care to provide prompt, proper, and adequate medical care to Claimant which aggravated her injuries and caused her additional pain and disability;
- b. Failure to properly diagnose Claimant's injury;
- c. Failure to use reasonable skill and care to properly manage Claimant's medical care after Claimant was injured, which made Claimant's initial condition worse.

- d. Failing to provide the Claimant with specialized medical care necessary to treat her specific injuries and condition;
- e. Failing to provide the Claimant with the recommended additional medical care and/or rehabilitation following her discharge from the hospital and forcing her to sign off on early vacation;
- f. Failing to provide the Claimant with prompt, proper, complete and adequate additional medical care and/or rehabilitation following her return home;
- g. Failing to provide all necessary medical care and maintenance until the Claimant's reached MMC;
- h. The medical care provided to the Claimant was inadequate, improper and below the appropriate standard of care;
- i. Respondents sending Claimant back to work while she was still injured and on pain medication;
- j. Respondents not reimbursing and/or not timely reimbursing Claimant for her out-of-pocket medical expenses;
- k. Respondents not authorizing and/or not timely authorizing/providing Claimant with

medical care;

- l. Respondents prematurely terminating Claimant's medical care; and/or
- m. Other acts or omissions constituting a breach of the duty which are revealed through discovery.

31. As a direct and proximate result of Respondents' failure, Claimant suffered additional pain, disability and/or Claimant's recovery was prolonged.

32. As a direct and proximate cause of the Respondent's breach of its duty, the Claimant was injured about her body and extremities, suffered physical pain and suffering, mental anguish, reasonable fear of developing future physical and medical problems, loss of enjoyment of life, physical disability, impairment, inconvenience on the normal pursuits and pleasures of life, feelings of economic insecurity caused by disability, disfigurement, aggravation of any previously existing conditions there from, incurred medical expenses in the care and treatment of Claimant's injuries, suffered physical handicap, lost wages, income lost in the past, and her working ability and earning capacity has been impaired. The injuries and damages are permanent or continuing in nature, and Claimant will continue to suffer the losses and impairments in the future. In addition Claimant in the past and in the future has lost the fringe benefits that come with Claimant's job, including but not limited to found, free food, free shelter, free medical care, free uniforms, vacation, and free airline ticket to her home and back.

WHEREFORE, Claimant demands judgment against Respondent for damages, attorney's fees, costs and interest as permitted by law.

**COUNT III – BREACH OF DUTY TO SECURE
THE SEAWORTHINESS OF THE VESSEL**

Claimant re-alleges, adopts, and incorporates by reference paragraphs one (1) through sixteen

(16) as though they were originally alleged herein.

33. Merchant Shipping Act 1976 (Chapter 268, Statute Law of The Bahamas) (“the MSA”) together with the Regulations thereunder and international maritime conventions adopted and incorporated therein give rise to a statutory duty of care owed by the owner of a ship to his master, seamen and apprentices⁵.

34. Pursuant to Section 209 of the MSA, Respondent has a statutory duty to use all reasonable means to ensure the seaworthiness of the vessel.

35. Respondents through its employees, servants, agents and/or representatives acting within the course and scope of their employment breached the foregoing duty owed to Claimant and failed to ensure she was provided with a seaworthy vessel by committing the following acts and/or omissions including but not limited to:

a. The vessel was unsafe and unfit due to the conditions created by Respondents as follows:

1. Failing to provide the proper crew and/or other device(s) for repetitive lifting;
2. Failing to have adequate policies and procedures to prevent bar wait staff from becoming injured while repeatedly lifting heavy objects;

⁵ The Second Schedule to the MSA contains a list of the international maritime conventions to which the Bahamas is a signatory, while the Third Schedule contains a list of the Regulations, Rules and Orders of the United Kingdom which are applied in the Bahamas pursuant to MSA. By section 185 of the MSA, the provisions of Articles 4 and 5 and the annex to the International Convention on the Safety of Life at Sea, 1974 (SOLAS) as modified by the Protocol of 1988 relating thereto, together with amendments thereto in force on February 3, 2000 (in this Part and in the Third Schedule referred to as "SOLAS 74/88") shall have the force of law. The provisions of the Third Schedule shall have effect in connection with SOLAS 74/88 and subsection (1) shall have effect subject to the provisions of that Schedule. The provisions of the Regulations to the International Convention on the Safety of Life at Sea, 1960 together with amendments thereto in force on November 1, 1974, (in this Part and in the Third Schedule referred to as "SOLAS 60") shall have the force of law to the extent that they have not been replaced or abrogated by provisions of SOLAS 74/88. The Bahamas is a signatory and the SOLAS convention came into force in the Bahamas on May 25, 1980.

3. Requiring Claimant to lift, hold and carry items which were too heavy for one person to safely lift, hold and carry in the manner required by the Respondents;
4. Failing to provide Claimant with proper training and/or supervision with respect to repetitive heavy lifting and/or heavy lifting;
5. Failing to warn the Claimant of the dangers of doing repetitive heavy lifting and/or heavy lifting;
6. Failing to provide adequate manpower to perform the work assigned to Claimant;
7. Creating a working environment where crewmembers are discouraged and/or unable to assist each other with duties;
8. Creating a working environment where crewmembers are rushed to complete their duties;
9. Requiring Claimant to continue repetitive heavy lifting and/or heavy lifting duties, despite her injury;
10. Sending Claimant back to work on pain killers after her injury;
11. Requiring Claimant to work while injured;
12. Creating a work environment where crewmembers are encouraged to return to work while injured;
13. Failing to warn Claimant of the dangers of working while injured;
14. Failing to warn Claimant of the dangers of working on pain killers while injured;
15. Failing to properly diagnose and/or treat Claimant's injuries; and/or

16. Failing to provide Claimant with prompt, proper and adequate medical treatment.

- b. The vessel was not reasonably fit for its intended purpose;
- c. The vessel's crew were not properly trained, instructed or supervised;
- d. The vessel did not have a fit crew;
- e. The vessel did not have adequate plant and crew;
- f. The crew and Claimant were overworked to the point of being exhausted and not physically fit to carry out their duties;
- g. Failed to select and utilize competent, skilled and properly trained medical care providers on board and shore side, with adequate expertise with which to provide the Claimant with prompt, proper and adequate medical care and failing to equip the vessel's medical facility with proper and adequate medical equipment.
- h. The vessel's medical staff negligently treated and medically managed Claimant's medical care after she was injured, causing a worsening of her condition.

36. All of the above caused the *Crystal Serenity* to be unseaworthy and unfit for its intended purpose, thereby causing the Claimant to be injured and to receive negligent and inadequate medical care for her injuries.

37. As a direct and proximate cause of the Respondent's breach of its duty, the Claimant was injured about Claimant's body and extremities, suffered physical pain and suffering, mental anguish, reasonable fear of developing future physical and medical problems, loss of enjoyment of life, physical disability, impairment, inconvenience in the normal pursuits and pleasures of life, feelings of economic insecurity caused by disability, disfigurement, aggravation of any previously existing conditions therefrom, incurred medical expenses in

the care and treatment of Claimant's injuries, suffered physical handicap, lost wages, lost income in the past, and Claimant's working ability and earning capacity have been impaired. These injuries and damages are permanent or continuing in nature, and Claimant will suffer these losses and impairments in the future. In addition, Claimant in the past and in the future has lost the fringe benefits that come with Claimant's job, including but not limited to found, free food, free shelter, free medical care, free uniforms, vacation, and free airline ticket home and back.

WHEREFORE, Claimant demands judgment against Respondent for damages, attorney's fees, costs and interest as permitted by law.

CLAIMS UNDER U.S. GENERAL MARITIME LAW

Notwithstanding the Tribunal's ruling on the application of Bahamian, U.S. General Maritime Law and in particular the Jones Act should govern these proceedings at any and all material times. Claimant renews her request that U.S. General Maritime Law be applied to her case and/or be used to fill in any gaps in Bahamian law. Further to this end and to preserve her rights, Ms. Filipovic sets forth the following claims:

COUNT IV – JONES ACT NEGLIGENCE

Claimant re-alleges, adopts, and incorporates by reference paragraphs one (1) through sixteen (16) as though they were originally alleged herein.

38. It was the duty of Respondents, to provide Claimant with a reasonably safe place to work, including competent crew.

39. At all times material hereto, all of Claimant's injuries are due to the fault and negligence of Respondents, and/or their agents, servants, and/or employees as follows:

u. Failure to use reasonable care to provide and maintain proper and adequate

- machinery, crew and equipment;
- v. Failure to use reasonable care to provide Claimant with a safe place to work;
 - w. Failure to promulgate and enforce reasonable rules and regulations to ensure the safety and health of the employees and more particularly the Claimant, while engaged in the course of her employment on Serenity;
 - x. Failure to use reasonable care to provide Claimant a safe place to work due to:
 - 18. Failing to provide proper crew and/or device(s) to stock the bar area;
 - 19. Failing to provide Claimant with proper lifting devices and/or sufficient assistance to perform her job duties in a reasonably safe manner;
 - 20. Failing to have adequate policies and procedures to prevent bar wait staff from becoming injured while repeatedly lifting heavy objects;
 - 21. Requiring Claimant to lift and hold items which were too heavy for one person to safely lift and hold;
 - 22. Failing to provide Claimant with proper training and/or supervision with respect to repetitive heavy lifting;
 - 23. Failing to warn Claimant of the dangers of doing repetitive heavy lifting;
 - 24. Failing to provide adequate manpower to perform the work assigned Claimant;
 - 25. Creating a working environment where crewmembers are discouraged and/ or unable to assist each other with duties;
 - 26. Creating a working environment where crewmembers are rushed to complete their duties;
 - 27. Requiring Claimant to continue repetitive heavy lifting and/or heavy lifting duties, despite her injury;

28. Sending Claimant back to work on pain killers after her injury;
 29. Requiring Claimant to work with an injury;
 30. Creating a work environment where crewmembers are sent back to the true nature and extent of their injuries being determined; and/or
 31. Failing to warn Claimant of the dangers of working with an injury;
 32. Failing to warn Claimant of the dangers of working on pain killers while injured;
 33. Failing to properly diagnose and/or treat Claimant's injuries; and/or
 34. Failing to provide Claimant with prompt, proper and adequate medical treatment.
- y. Failure to provide adequate instruction and supervision to crewmembers and Claimant;
 - z. Failure to provide prompt, proper, and adequate medical care to the Claimant when she sought medical attention for her condition;
 - aa. Failing to properly diagnose and treat the Claimant's condition;
 - bb. Failure to provide Claimant and other crewmembers who were associated with Claimant or Claimant's incident(s) giving rise to this action, reasonable hours of employment so as to not overwork them to the point of not being physically fit to carry out their duties. Respondents' employees are overworked to the point of fatigue;
 - cc. Failure to learn and apply the common and well-known principles of industrial ergonomics and apply them on board the Serenity; and/or
 - dd. Failure to incorporate modern work methods, procedures, and material handling techniques on board the Serenity;

- ee. Failure to properly train workers (such as Claimant to lift heavy objects) and to staff the proper amount of workers, which results in small/undersized work crews improperly doing jobs that are traditionally handled by larger crews;
- ff. Failing to provide Claimant with mechanized aids commonly available in other industries and at comparable land based jobs;
- gg. Failing to ascertain the cause of prior similar accidents/incidents so as to take measures to prevent their re-occurrence, and more particularly Claimant's accident;
- hh. Failure to follow sound management practices with the goal of providing Claimant a reasonably safe place to work;
- ii. Failure to investigate the hazards to Claimant before Claimant's incident(s) and then take the necessary steps to eliminate the hazards, minimize the hazard or warn Claimant of the danger from the hazard;
- jj. Failure to adhere to the Seafarers' Hours of Work and the Manning of Ships Convention, 1996: with respect to the hours of work and rest as well as other standards such as ILO 147;
- kk. Failed to select and utilize competent, skilled, and properly trained medical care providers on board and shore side, having adequate expertise with which to provide the Claimant with prompt, proper and adequate medical care;
- ll. Failure to provide Claimant with enough sleeping time so as to cause Claimant and the other crewmembers on the Serenity the same physical and mental impairments as being drunk. These type of impairments have been documented in the Journal of Occupational and Environmental Medicine; 57:649-655 (October 2000);
- mm. Failure to properly medically manage Claimant's medical care after Claimant was

injured and sought care; and/or

nn. Other acts or omissions constituting a breach of the duties owed to the Claimant which are revealed through discovery.

40. All of the above caused the Claimant to be injured and to not receive adequate care for her injuries.

41. Respondents, knew of the foregoing conditions causing Claimant's incident/accident and did not correct them, or the conditions existed for a sufficient length of time so that Respondents, in the exercise of reasonable care, should have learned of them and corrected them.

42. As a result of the negligence of Respondents, the Claimant was injured about her body and extremities, suffered extreme physical pain and suffering, mental anguish, reasonable fear of developing future physical and medical problems, loss of enjoyment of life, physical disability, impairment, inconvenience on the normal pursuits and pleasures of life, feelings of economic insecurity caused by disability, disfigurement, aggravation of any previously existing conditions therefrom, incurred medical expenses in the care and treatment of Claimant's injuries, suffered physical handicap, lost wages, income lost in the past, and her working ability and earning capacity has been impaired.

43. The injuries and damages suffered by the Claimant are permanent or continuing in nature, and she will suffer the losses and impairments in the future.

44. In addition, Claimant, in the past and in the future, has lost the fringe benefits that come with Claimant's job, including but not limited to, free food, free shelter, free medical care, free uniforms, vacation, and free airline ticket home and back.

WHEREFORE, Claimant demands judgment against Respondent for damages, attorney's fees,

costs and interest as permitted by law.

COUNT V - FAILURE TO PROVIDE MAINTENANCE AND CURE

Claimant re-alleges, adopts, and incorporates by reference paragraphs one (1) through sixteen (16) as though they were originally alleged herein.

45. On or about the above-stated dates, Claimant was injured while in the service of the vessel as a crewmember.

46. Under the General Maritime Law and by operation of treaty, Claimant, as a seafarer, is entitled to recover maintenance and cure from Respondents, until declared to have reached maximum possible cure. This includes unearned wages (regular wages, overtime, vacation pay and tips), which are reasonably anticipated to the end of the contract or voyage whichever is longer.

47. Respondents failed to provide Claimant with prompt, proper and adequate medical care for her injuries. Respondents failed to provide Claimant with timely maintenance and cure benefits. Respondents failed to promptly authorize and/or provide medical care for Claimant. Respondents failed to promptly reimburse Claimant for out of pocket medical expenses.

48. Respondents willfully and callously delayed, failed and refused to pay Claimant's entire maintenance and cure so that Claimant has become obligated to pay the undersigned a reasonable attorney's fee.

49. Respondents' failure to pay Claimant's entire maintenance and cure is willful, arbitrary, capricious, and in callous disregard for Claimant's rights as a seafarer. As such, Claimant would be entitled to attorney's fee under the General Maritime Law of the United States. Further Respondents unreasonably failed to pay or provide Claimant with maintenance and

cure which aggravated her condition and caused Claimant to suffer additional compensatory damages including but not limited to the aggravation of Claimant's physical condition, disability, pain and suffering, reasonable fear of developing future physical and medical problems, mental anguish, loss of enjoyment of life, feelings of economic insecurity as well as lost earnings or earning capacity, and medical and hospital expenses in the past and into the future.

WHEREFORE, Claimant demands all damages entitled by law, including punitive damages⁶ and attorney's fees.

COUNT VI – FAILURE TO TREAT

Claimant re-alleges, adopts, and incorporates by reference paragraphs one (1) through sixteen (16) as though they were originally alleged herein.

50. On or about the above-stated dates, Claimant was employed by Respondents as a seafarer and was a member of the vessel's crew. The vessel was in navigable waters.

51. At all times material hereto, it was the duty of Respondents to provide Claimant with prompt, proper and adequate medical care.

52. At all times material hereto, Respondents (through the ship's physicians and/or shoreside physicians and nurses) negligently failed to promptly provide Claimant with prompt, proper, adequate, and complete medical care. This conduct includes, but is not limited to:

- a. Respondents not giving Claimant medical care after it was recommended by the ship board doctor and forcing the Claimant to sign off on early vacation;
- b. Respondents not giving Claimant medical care in a timely manner after she

⁶ Pursuant to the United States Supreme Court case of *Atlantic Sounding Co., Inc., et al. v. Townsend*, 557 U.S. 404 (2009).

presented with her complaints to the ship's doctor and/or nurse seeking treatment for her condition;

- c. Respondents not properly diagnosing Claimant's injury;
- d. Respondents not providing Claimant with prompt, proper, and/or adequate medical care after his injury;
- e. Respondents not referring and/or transporting Claimant to an onshore medical hospital for Claimant to receive prompt, proper, complete and adequate medical care for his injuries;
- f. Respondents sending Claimant back to work while she was still injured and on pain medication;
- g. Respondents not reimbursing and/or not timely reimbursing Claimant for her out-of-pocket medical expenses;
- h. Respondents not authorizing and/or not timely authorizing/providing Claimant with medical care; and/or
- i. Respondents prematurely terminating Claimant's medical care.

53. As a direct and proximate result of Respondents' failure, Claimant suffered additional pain, disability and/or Claimant's recovery was prolonged.

54. In addition, the Claimant was injured about Claimant's body and extremities, suffered physical pain and suffering, mental anguish, reasonable fear of developing future physical and medical problems, loss of enjoyment of life, physical disability, impairment, inconvenience in the normal pursuits and pleasures of life, feelings of economic insecurity caused by disability, disfigurement, aggravation of any previously existing conditions therefrom, incurred additional medical expenses in the care and treatment of Claimant's

injuries, suffered physical handicap, lost wages, lost income in the past, and Claimant's working ability and earning capacity have been impaired. These injuries and damages are permanent or continuing in nature, and Claimant will suffer these losses and impairments in the future.

55. This Count is alleged separately from Jones Act Negligence pursuant to *Joyce v. Atlantic Richfield Company*, 651 F.2d 676 (10th Cir. 1981) which states, in part, "Negligent failure to provide prompt medical attention to a seriously injured seaman gives rise to a separate claim for relief [for which separate damages are awardable]."

WHEREFORE, Claimant demands judgment against Respondent for damages, attorney's fees, costs and interest as permitted by law.

COUNT VII – UNSEAWORTHINESS

Claimant re-alleges, adopts, and incorporates by reference paragraphs one (1) through sixteen (16) as though they were originally alleged herein.

56. On or about the above-stated dates, Claimant was a seaman and a member of the crew of *Serenity*, which was in navigable waters.

57. At all times material hereto, *Serenity* was owned, managed, operated and/or controlled by Respondents.

58. Respondents had the absolute non-delegable duty to provide Claimant with a seaworthy vessel.

59. On or about the above-stated dates, the unseaworthiness of Respondents' vessel was a legal cause of injury and damage to Claimant by reason of the following:

- a. The vessel was unsafe and unfit due to the conditions created by Respondents as follows:

1. Failing to provide the proper crew and/or other device(s) for repetitive lifting;
2. Failing to have adequate policies and procedures to prevent bar wait staff from becoming injured while repeatedly lifting heavy objects;
3. Requiring Claimant to lift, hold and carry items which were too heavy for one person to safely lift, hold and carry in the manner required by the Respondents;
4. Failing to provide Claimant with proper training and/or supervision with respect to repetitive heavy lifting and/or heavy lifting;
5. Failing to warn the Claimant of the dangers of doing repetitive heavy lifting and/or heavy lifting;
6. Failing to provide adequate manpower to perform the work assigned to Claimant;
7. Creating a working environment where crewmembers are discouraged and/or unable to assist each other with duties;
8. Creating a working environment where crewmembers are rushed to complete their duties;
9. Requiring Claimant to continue repetitive heavy lifting and/or heavy lifting duties, despite her injury;
10. Sending Claimant back to work on pain killers after her injury;
11. Requiring Claimant to work while injured;
12. Creating a work environment where crewmembers are encouraged to return to work while injured;

13. Failing to warn Claimant of the dangers of working while injured;
 14. Failing to warn Claimant of the dangers of working on pain killers while injured;
 15. Failing to properly diagnose and/or treat Claimant's injuries; and/or
 16. Failing to provide Claimant with prompt, proper and adequate medical treatment.
- b. The vessel was not reasonably fit for its intended purpose;
 - c. The vessel's crew were not properly trained, instructed or supervised;
 - d. The vessel did not have a fit crew;
 - e. The vessel did not have adequate manpower for the task(s) being performed;
 - f. The crew and Claimant were overworked to the point of being exhausted and not physically fit to carry out their duties;
 - g. Failed to select and utilize competent, skilled and properly trained medical care providers on board and shore side, with adequate expertise with which to provide the Claimant with prompt, proper and adequate medical care and failing to equip the vessel's medical facility with proper and adequate medical equipment.
 - h. The vessel's medical staff negligently treated and medically managed Claimant's medical care after she was injured, causing a worsening of her condition.
60. All of the above caused the *Serenity* to be unseaworthy and unfit for its intended purpose, thereby causing the Claimant to be injured and to receive negligent and inadequate medical care for her injuries.
61. As a result of the unseaworthiness of the vessel, the Claimant was injured about Claimant's body and extremities, suffered physical pain and suffering, mental anguish, reasonable fear

of developing future physical and medical problems, loss of enjoyment of life, physical disability, impairment, inconvenience in the normal pursuits and pleasures of life, feelings of economic insecurity caused by disability, disfigurement, aggravation of any previously existing conditions therefrom, incurred medical expenses in the care and treatment of Claimant's injuries, suffered physical handicap, lost wages, lost income in the past, and Claimant's working ability and earning capacity have been impaired. These injuries and damages are permanent or continuing in nature, and Claimant will suffer these losses and impairments in the future. In addition, Claimant in the past and in the future has lost the fringe benefits that come with Claimant's job, including but not limited to found, free food, free shelter, free medical care, free uniforms, vacation, and free airline ticket home and back.

WHEREFORE, Claimant demands judgment against Respondent for damages, attorney's fees, costs and interest as permitted by law.

Quantum Demand: \$1,500,000.00⁷.

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⁷ Claimant is still actively treating and is currently being evaluated for cervical revision surgery. Claimant reserves the right to amend this number based upon findings of the doctors and ongoing discovery.

Attorneys for Claimant

Jelena Filipovic v. Crystal Cruises

Factual Background

Just five months before joining the *Crystal Serenity*, Ms. Filipovic underwent her Pre-Employment Physical Examination and was found fit for duty with no restrictions or limitations. She signed aboard the vessel as a Bar Waitress having been promoted from stateroom attendant during her last contract. As a Bar Waitress Ms. Filipovic's duties included serving the guests, ensuring the bar was properly stocked, and cleaning the refrigerator and bar areas. When restocking the bar, she was specifically instructed by the F&B Manager that she had to carry the liquor bottles on a tray as guests could see her when she walked from the pantry area to the bar.

On November 12, 2018, our client, along with two other co-workers, were assigned to work in an area covering two bars. However Ms. Filipovic ended up having to perform all the duties and cover the entire area as one of her co-workers was moved to a different area and the other was sent on break. While she was working by herself, the bartender instructed her to bring approximately 10-15 bottles from the pantry. As she was required to use a tray and could only carry a few bottles at a time, this required multiple trips. As a result Ms. Filipovic was rushing around so as to ensure that she provided excellent customer service to the guests while at the same time keeping the bar properly stocked. It was during this hectic time when she was carrying a tray with several bottles that she felt a sharp pain in her shoulder. As she was the only bar waitress on duty she pushed through the pain and continued work.

Ms. Filipovic finally finished work close to 2 am and returned to her cabin. As she prepared for bed she describes feeling an "explosion" of pain in her shoulder area so severe it left her in tears. The next morning she presented to the ship's infirmary where she was given pain medication and a single day to rest. Over the next two weeks our client returned to the infirmary several more times. Each time she was given pain medication and/or an injection and sent back to work. This exacerbated and worsened her condition.

Finally, on November 25, 2018, the shipboard physician diagnosed our client with "cervicobrachialgia and pain in the left shoulder" and referred her to an orthopedic surgeon for further evaluation and treatment. The doctor explained that she would be medically disembarked and repatriated so she could obtain the medical care she required.

However, on November 28, 2018, she was given disembarkation papers which said she was leaving for "early vacation." She brought this error to the attention of the ship's doctor who agreed that the paperwork was incorrect. The doctor spoke with the Hotel Director who said that it was the company's decision that she be signed off as "early vacation" and the decision would not be changed. Ms. Filipovic then asked to speak with the Captain to correct the situation but her request was denied. In need of medical care and blocked from correcting her sign-off paperwork, Ms. Filipovic was forced to sign off for "early vacation."

When she returned home and attempted to obtain medical care it was refused because she was not medically disembarked but rather signed off for “early vacation.” While Crystal agreed to provide her with her medical care, it wrongfully refused to provide her with her sick wages, maintenance and reimburse her for her out of pocket expenses related to her medical care. Only after she retained counsel, who made repeated demands for the provision of full and complete maintenance and cure benefits, did Crystal finally agree to provide her with her sick wages and maintenance. Ms. Filipovic had to wait over two years to finally receive these benefits. In the meantime she had to borrow from family and friends and sell of her personal belongings to survive. This added considered stress and anxiety to her already fragile condition.

Medical Care

In December of 2018, Ms. Filipovic began treating at Bel Medic Medical Center where received physical therapy. On January 25, 2019, she was evaluated by orthopedic surgeon Dr. Slavisa Zagorac. Ms. Filipovic reported that therapy did not improve her condition, the pain affected her ability to sleep and she was having tremors in her hands. She was referred to a neurologist for evaluation.

On January 31, 2019, she was evaluated by Dr. Vesna Ilic. Ms. Filipovic presented with complaints of pain in both shoulders and in her neck, tremors in her fingers and weakness in both hands. MRI of her cervical spine showed:

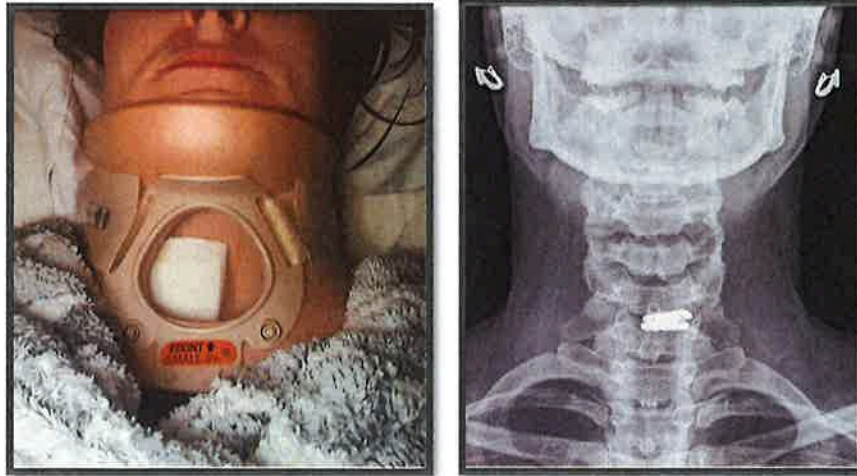
- Spondylosis,
- C5/C6 disc herniation, mediolaterally to the left;
- Focal disc herniation C6/C7, paracentrally to the left

Additional therapy and injections did not resolve her symptoms. An ENMG was ordered which showed:

- Disc herniation/protrusion at the C5-C6 level
- Disc herniation more prominent at the C6-C7 level;
- Chronic neurogenic lesion at the C5-C7 level

Surgery was recommended which was performed on March 26, 2019, when our client underwent an anterior cervical discectomy and fusion (ACDF) at the C6-C7 level and implantation of a prosthetic disc.

At her first post-operative evaluation on April 1, 2019, Ms. Filipovic, was prescribed more pain medication, was instructed to wear a neck collar and to avoid any lifting for the next two months.



Following the surgery Ms. Filipovic continued with physical therapy which included INDIBA RF, Laser, Bioptron Lamp, Kinesiotherapy and acupuncture therapy.

Due to ongoing complaints, in February 2020 a follow-up MRI was performed. Based on her physical complaints, the MRI results and his medical evaluations, Dr. Milenko Savic, a neurosurgery specialist opined that revision surgery is required. This would include a repeated discectomy and a re-implantation of the artificial disc at the C6-C7 level.

At present Ms. Filipovic continues to treat for her shipboard injuries.

Damages

Ms. Filipovic has been living with pain and symptoms for almost four years and has endured extensive medical procedures including physical therapy, multiple injections, disc replacement surgery and fusion. Now at age 31, she must endure a second cervical surgery.

In addition to her physical pain and suffering, Ms. Filipovic has been unable to work since her shipboard incident and will remain unable to work into the foreseeable future. Even after the second surgical procedure she will be unfit to return to work aboard a vessel as she will no longer meet the physical requirements.

At the time of her injury Ms. Filipovic was working as a bar waitress earning on average \$2,883.00 per pay period. Allowing that Ms. Filipovic worked 10 months per year, she has incurred over \$28,830 in past lost wages. Conservatively assuming she worked aboard the vessels for another 15 years to age 46, she will incur \$432,450 in future lost wages. These figures do not include the value of her fringe benefits.

Additionally, Crystal Cruises has failed to provide Ms. Filipovic with her complete cure and failed to pay her sick wages and maintenance thereby subjecting it to punitive damages.