

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

2018 JAN -4 AM 10:20

CASE NO.:

US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

JOHN DOE, JANE DOE, and
JOHN DOE, JR.,

6:18-cv-15-orl-18 DCI

Plaintiffs,

v.

MAGICAL CRUISE COMPANY, LIMITED
d/b/a DISNEY CRUISE LINE,

Defendant.

_____ /

COMPLAINT—JURY TRIAL DEMANDED

Plaintiffs sue Defendant and allege:

PARTIES AND JURISDICTION

1. This action is being brought individually by John Doe, Jane Doe, and John Doe, Jr.
2. Because this matter concerns the private medical and neuropsychological diagnosis of John Doe, Jr., Plaintiffs file this action anonymously to protect his privacy.
3. Plaintiffs are citizens of the United States and residents of New Jersey.
4. Defendant, Magical Cruise Company, Limited d/b/a Disney Cruise Line (“Disney”), is a foreign entity with its principal place of business in Florida.
5. This is an action seeking damages in excess of \$75,000.00, exclusive of interest, costs and attorneys’ fees.
6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332.
7. At all times material hereto, Defendant owned, operated, managed,

maintained and/or controlled the vessel Disney Magic. The vessel was registered in a flag of convenience country.

8. On or about August 19 to August 26, 2017, Plaintiffs were paying passengers on the Disney Magic. At that time, Plaintiff John Doe, Jr. was a 17-year-old minor, and Plaintiffs John Doe and Jane Doe were his natural and legal guardians.

9. The parties agreed that any dispute relating to the cruise contract would be litigated in a court in Brevard County, Florida, including the United States District Court, Middle District of Florida, Orlando division.

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

10. Disney holds itself out as a cruise line that provides special services to families with children.

11. For example, Disney advertises that on its cruises, it provides numerous activities for families to do together, but also that it provides activities and spaces for minors to be unaccompanied by parents, yet still secure and safe.

12. Disney promotes itself as providing a safe ship that is monitored throughout, and encourages parents to allow minors 14 to 17 years old to move throughout the ship unaccompanied by their parents.

13. Disney undertakes to monitor its ship reasonably, including monitoring the activities of 14 to 17 year olds on the ship when they are not in the company of their parents.

14. Disney promotes that its ships are equipped with advanced surveillance and security systems that its personnel actively monitor, and that it employs such systems in order to ensure the safety of passengers, and in particular minor passengers.

15. Disney further promotes that it has security procedures and systems designed to insure that minors are kept out of restricted areas.

16. John Doe, Jr. suffers from diagnosed developmental deficits. For example, neuropsychological tests show his mental processing speed is in the fourth (4th) percentile, and he suffers from impulse control issues.

17. Due to the special services and heightened level of safety that Disney provides to families with children, and given the special needs and vulnerabilities of John Doe, Jr., the Doe family had chosen to take multiple Disney cruises sailing from U.S. ports over the years. The Does have paid tens of thousands of dollars to sail on Disney cruises. The Does considered themselves to be part of the Disney family.

18. As of August 2017, John Doe Jr. was recognized by counselors and neuropsychologists as a sweet boy, but naïve and easily manipulated due to a desire to be liked. He was approaching his 18th birthday, and the family wished to take a family vacation.

19. Given the special vulnerabilities of their son, the Does chose a Disney cruise because it promised to provide a contained, monitored environment for John Doe, Jr. This contained environment was a distinguishing factor for many reasons, not the least of which was the fact that either a cruise on a non-Disney ship that lacked the emphasis on enhanced security for minors, or a land-based vacation, could result in situations where John Doe, Jr. might have access to alcohol.

20. On a Disney cruise, the Does believed that they could rest assured that their developmentally-challenged 17 year old could move about the ship without the chance that he could become inebriated.

21. The Does could not imagine that, on a Disney cruise, a group of teens would be able to wander the ship getting into trouble without anyone from the crew confronting them and preventing the situation from getting out of control.

22. Due to the enhanced security and services Disney promised for families with minor children, and given the special needs of John Doe, Jr., the Doe family chose to purchase a cruise from August 19-26, 2017 on the vessel Disney Magic, sailing round-trip from Barcelona, Spain.

23. Due to the enhanced security and services Disney promised families, and given the special needs of John Doe, Jr., the Does were willing to and did pay a premium price for this cruise compared to a cruise that did not promise such enhanced security and services for minor children.

24. The security on this cruise did not meet reasonable standards, or the standards set by Disney.

25. On the night of August 25-26, 2017, the Plaintiff John Doe, Jr. was injured aboard the vessel Disney Magic as a result of Defendant failing to provide reasonable security on its vessel.

26. Specifically, John Doe, Jr., who had been in a chaperoned area, was allowed to leave it and wander freely through the ship with other minors. As it became more apparent that there was no one watching him and the other teenagers, John Doe, Jr.'s impulse control and approval-seeking impulses were triggered, along with the bravado of the other teens, resulting in him and the other minors obtaining poorly secured alcohol. Disney's failure to monitor the teens resulted in the teens having a sense of lawlessness. Disney failed to properly secure its alcohol.

27. John Doe, Jr. and the other minors were allowed to wander further throughout the ship for a long period, past several hours, while drinking alcohol and becoming excessively inebriated, enter areas that were supposedly restricted, and get into mischief throughout the ship.

28. Disney security personnel did not properly monitor the ship, such that they did not notice, or chose to ignore, a band of teenagers drinking and getting increasingly inebriated as they moved throughout the ship, both in areas they were allowed to be, and in areas that were supposedly closed, for an extended period of time, past several hours.

29. After assuming the duty of monitoring the minors aged 14 to 17 years, Defendant failed to reasonably secure the ship, monitor the minors throughout the ship, and monitor the ship's supposedly secure or restricted areas, in a way that would prevent injury to the minors or others.

30. John Doe, Jr. suffered physical injury in the form of alcohol poisoning.

31. John Doe, Jr. was impacted more than the average individual by this alcohol poisoning given his developmental deficits, including deficits in mental processing speed and impulse control. The effects of the alcohol were exacerbated by the complete lack of security, which further amplified John Doe, Jr.'s impulse control problems, causing the situation to spiral out of control.

32. Disney did not take responsibility for its negligence in failing to monitor the teens, or its failure to secure its alcohol, and return John Doe, Jr. to his parents, as it should have, with apologies.

33. Disney did not provide John Doe Jr. with medical care.

34. Instead, in an attempt to punish and intimidate John Doe, Jr. and his

family, and prevent and discourage his family from reporting the security lapses, Disney security personnel:

- a. denied John Doe, Jr. medical care;
- b. wrongfully detained him;
- c. handed him over to Spanish authorities (who asked for a wheelchair for him, which Disney denied);
- d. wrongfully detained the Doe family, or some of them, in its quarters;
and
- e. wrongfully informed Spanish officials that John Doe, Jr. had committed serious felonies on the ship.

35. John Doe, Jr., given his limitations and inebriation, was made the scapegoat for the collective actions of the teens, and for the security failures of Disney personnel.

36. Each of the Plaintiffs suffered from the alcohol poisoning experienced by John Doe, Jr.. John Doe, Jr. suffered the direct physical impacts of the poisoning. His parents, John and Jane Doe, suffered emotional distress at seeing their developmentally impaired minor son suffering from alcohol poisoning.

37. Further, given Disney's vindictive actions, each of the Plaintiffs suffered the fear that John Doe, Jr. would be subjected to incarceration and foreign prosecution for serious crimes that could at a minimum prevent him from starting college in the coming weeks, and possibly result in years of incarceration. John Doe, Jr. faced the prospect that his life had been destroyed. His parents, John and Jane Doe, were faced with the harrowing thought that, instead of starting college almost immediately upon his return to

the United States, their son would be thrown in a foreign prison indefinitely, obtain a criminal record, and have his life ruined.

38. John Doe Sr. refused to leave his son's side, and was detained with him.

39. The Spanish officials who arrested John Doe, Jr. considered his neuropsychological limitations, and his extreme alcohol poisoning, and released him. Nonetheless, John Doe, Jr. and his family suffered hours of a harrowing experience of John Doe, Jr. being accused of a crime, being arrested while in a state of extreme inebriation, being made subject to possible prosecution in a foreign country, and facing ruinous consequences.

COUNT I – NEGLIGENCE

40. Plaintiffs reallege, adopts and incorporate by reference the allegations in paragraphs one (1) through thirty nine (39) as though alleged originally herein.

41. Disney assumed the duty of appropriately monitoring the activities of all minors aboard its ship.

42. On or about August 25 and 26, 2017, Defendant and/or its agents, servants, and/or employees breached its duty to provide the Doe family and John Doe, Jr. with reasonable care under the circumstances.

43. John Doe, Jr. was injured due to the fault and/or negligence of Defendant, and/or its agents, apparent agents, servants, and/or employees as follows:

- a. Failure to enact reasonable policies concerning minors on board; and/or
- b. Failure to enact reasonable closing policies of chaperoned spaces; and/or
- c. Failure to secure alcohol; and/or
- d. Failure to secure restricted spaces; and/or

- e. Failure to monitor a group of minors wandering throughout the ship for hours; and/or
- f. Failure to confront this group of minors and inform their parents of what was happening for so long that they, including John Doe, Jr. were able to get excessively inebriated and correspondingly reckless; and/or
- g. Failure to ascertain the cause of prior similar accidents so as to take measures to prevent their re-occurrence, and more particularly the incident at issue in this lawsuit; and/or
- h. Failure to monitor security cameras; and/or
- i. Failure to follow sound safety practices with the goal of providing passengers and the minor Plaintiff with a safe environment; and/or
- j. Failure to investigate, prior to the minor Plaintiff's incident, the hazards to passengers and take necessary steps to eliminate the hazards, minimize the hazard or warn Plaintiffs of the danger from the hazard; and/or
- k. Failure to provide the minor Plaintiff with prompt, proper and adequate medical care; and/or
- l. Failure to train its personnel concerning minors with neuropsychological disabilities.

COUNT II – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

44. Plaintiffs reallege, adopt, and incorporate by reference the allegations in paragraphs one (1) through thirty nine (39) as though alleged originally herein.

45. Disney personnel, rather than apologize for allowing the teens to roam the ship and obtain alcohol, decided to scapegoat and punish John Doe, Jr.

46. At the moment that he needed medical care, it detained him, and, when the ship ported in Barcelona, turned him over to Spanish authorities, reporting to them that he

had committed felonies aboard the ship.

47. Disney personnel knew that John Doe, Jr. was a minor who was so inebriated that he could not be responsible for his actions. Disney personnel knew that they in fact were the proximate cause of his actions, because they failed to secure their ship and the alcohol on their ship, and they had failed to monitor teens on their ship.

48. Disney personnel knew, because John Doe Sr. informed them, that John Doe Jr. suffered from neuropsychological disabilities that made him not responsible for his actions.

49. Disney personnel knew, because John Doe Sr. informed them, that John Doe Jr. suffered from developmental disabilities that would make the impact of his arrest profoundly damaging to him.

50. The purpose of detaining John Doe, Jr., accusing him of crimes to the Spanish authorities and turning him over to the Spanish authorities was to inflict severe emotional distress upon and punish him and his family for actions John Doe, Jr. had taken – actions that never would have been taken if Disney had not failed to secure its ship and monitor the teens on its ship – and thereby to prevent and discourage his family from complaining up the chain of command for the abject security failure that allowed and resulted in the teens obtaining alcohol and wandering the ship inebriated.

51. The motives for detaining the family included preventing them from reporting the security breaches up the chain of command on the ship.

52. The motives for reporting the matter to Spanish authorities included a desire to absolve the security personnel of its responsibility by coloring the actions of John Doe, Jr. as grave crimes of import to national authorities.

53. The Plaintiffs suffered emotional distress from the harrowing experiences described herein, the emotional distress was severe, and the emotional distress continues to this day. For example, John Doe, Jr. suffers from flashbacks and confusion.

54. John Doe, Jr. has suffering has been extreme due to his preexisting disabilities which made him particularly vulnerable. Mr. and Mrs. Doe had invested the previous eighteen (18) years to build John Doe Jr.'s confidence to be a functioning, secure adult.

55. Through its negligence and vindictive actions, Disney destroyed that confidence and security in a matter of hours.

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

Dated: December 29, 2017.

Respectfully submitted,

do Campo & Thornton, P.A.
Chase Bank Building
150 S.E. Second Ave., Ste. 602
Miami, Florida 33131
Telephone: (305) 358-6600
Facsimile: (305) 358-6601

By:



JOHN THORNTON
Florida Bar No. 004820
jt@dandtlaw.com