

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI-DADE DIVISION

Case No. _____-Civ

J.G.,

Plaintiff,

vs.

CARNIVAL CORPORATION,
d/b/a CARNIVAL CRUISE LINES, INC.,
MAYANK THAPA, REDENTOR YUZON,
and a female known only as "LETICIA",

Defendants.

COMPLAINT

COMES NOW, the Plaintiff, J.G., by and through undersigned counsel and sues the Defendants, CARNIVAL CORP., d/b/a CARNIVAL CRUISE LINES, INC. (hereinafter CARNIVAL), and MAYANK THAPA (THAPA), REDENTOR YUZON (YUZON), and a female known only as "LETICIA" (LETICIA) (hereinafter referred to as DEFENDANT AGENTS or by name), and states as follows:

GENERAL ALLEGATIONS

1. This Court has subject matter jurisdiction of this action pursuant to 28 U.S.C. § 1332 insofar as there is diversity of citizenship between the parties and that amount in controversy exceeds \$75,000 excluding interest. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and the forum selection clause of Plaintiff's passenger cruise ticket with Defendant, CARNIVAL.

Venue is also proper under 28 U.S.C. § 1391.

2. Plaintiff has complied with all conditions precedent to bringing this action.

3. Defendant, CARNIVAL, is, upon information and belief, a foreign and/or Panamanian corporation, which is licensed to do business in Florida as a cruise line. Defendant's base of operations is in Miami, Dade County, Florida.

4. Plaintiff, J.G., is over the age of eighteen (18) years, *sui juris* and a resident citizen of the State of Florida.

5. At all times material, Defendant, CARNIVAL, was engaged in the ownership, charter, operation, navigation and/or management of cruise vessels, including the vessel known as the M/V "SENSATION" upon the waters of the United States, foreign states, and the State of Florida. At all times material, CARNIVAL engaged in interstate and foreign commerce to and from ports within the United states, foreign ports and State of Florida, for the purposes of doing business and engages in business within the United States and the State of Florida including this District on a systematic and continuous basis.

6. At all times material hereto, Defendant, CARNIVAL, was the owner, operator, authorized agent, charterer and or representative of a vessel cruise ship known as the "CARNIVAL SENSATION".

7. At all times material hereto, to the best knowledge and belief of the Plaintiff herein, the defendant MAYANK THAPA (THAPA), a male, was a member of the CARNIVAL SENSATION's "security staff" and was an agent and employee of the defendant CARNIVAL.

8. At all times material hereto, to the best knowledge and belief of the Plaintiff herein, the defendant REDENTOR YUZON (YUZON), a male, was an "assistant housekeeping manager"

aboard the CARNIVAL SENSATION and was an agent and employee of the defendant CARNIVAL.

9. At all times material hereto, to the best knowledge and belief of the Plaintiff herein, the female defendant known only as "LETICIA" and whose position is currently unknown was an agent and employee of the defendant CARNIVAL.

10. On or about April 27, 2011, Plaintiff was a fare-paying passenger on Defendant's vessel, the CARNIVAL SENSATION. As such, Plaintiff was a traveler on a public conveyance and said vessel was a common carrier for hire.

11. At said time and place and at all times material hereto, a contractual relationship existed between the Plaintiff and CARNIVAL, which obligated the Plaintiff to commence litigation in this Court. Further, that arising out of this maritime relationship between Plaintiff and CARNIVAL the Defendant was obligated to transport the Plaintiff to her destination while exercising a reasonable degree of care under the circumstance for the Plaintiff's safety. A copy of said contract is attached hereto as Exhibit "A". Upon information and belief, the attached contract is a facsimile of the applicable contract that has been reproduced from CARNIVAL. Any other contract, or amendments applicable, between the Parties will be filed with this Court.

12. On April 24, 2011, J.G. boarded the cruise vessel CARNIVAL SENSATION in Cape Canaveral, Florida for a cruise ending in four (4) days on April 28, 2011.

13. At all times relevant to this complaint, J.G. was a minor, age seventeen (17).

14. At the time of filing this complaint, J.G. has reached the age of eighteen (18) and brings this suit on her own behalf.

15. At the time of her boarding the vessel, J.G. was accompanied by her mother, her aunt

and her friend K.B., also a minor, age fifteen (15).

16. On April 26, 2011, the SENSATION moored in Nassau, Bahamas

17. The SENSATION was scheduled to depart on April 27, 2011.

18. At approximately 2:00 a.m. on April 27, 2011, J.G., her mother and her friend, K.B., returned from ashore and reboarded the vessel.

19. The three persons named in paragraph eighteen (18) and a male acquaintance of J.G.'s mother entered an elevator to go to the deck where their cabins were located.

20. Also in the elevator was a ship security officer named MAYANK THAPA (THAPA).

21. Defendant Agent THAPA recovered a small bag from the floor which he later reported to contain "green leaves and substance inside".

22. When the elevator doors opened J.G., her mother, her mother's male acquaintance, and K.B. exited the elevator.

23. J.G. and K.B. returned to cabin U10.

24. Defendant Agent THAPA stayed within the elevator.

25. After approximately fifteen (15) minutes, J.G. and K.B. learned that the security officer THAPA, a female identified in reports only as "LETICIA", and assistant housekeeping manager REDENTOR YUZON (YUZON) were at the door of cabin U10.

26. The three above named ship's employees proceeded to enter the girls' cabin.

27. Security Officer THAPA knew that J.G.'s mother had boarded the vessel but was not present in the room.

28. These employees knew, or should have known, that the two girls were minors.

29. The three employees made no attempt to locate J.G.'s mother before beginning an

aggressive, intimidating interrogation of J.G. in the confines of the cabin.

30. None of CARNIVAL's employees warned J.G. about her rights, including for her mother to be present during any interrogation.

31. At no time was J.G. informed that she was being taken into custody, yet J.G. and K.B. were not permitted to leave the cabin due to the aggressive nature of the interrogation and the fact that one agent had the doorway blocked.

32. At no time did J.G. or K.B. consent to interrogation or to being confined.

33. The interrogation lasted for some period of time and consisted of threatening and intimidating language and behavior by CARNIVAL's employees wherein the girls feared for their personal safety.

34. The ship's agents repeatedly threatened and coerced J.G. to admit that the substance he previously recovered in the elevator by Defendant Agent THARPA belonged to her in exchange for the interrogation to cease, and further stated that if she cooperated, J.G. would be permitted to continue with her cruise.

35. J.G. provided an admission.

36. After obtaining J.G.'s coerced confession, the ship's agents continued with their interrogation and demanded to know "where the rest of it was" and "who she purchased it from in the Bahamas."

37. J.G. told them there was no more and she denied having bought anything in the Bahamas.

38. In response to their continued coercion J.G. dumped the contents of her purse on the bed. No contraband or illegal substances were found.

39. The DEFENDANT AGENTS, THAPA, YUZON and LETICIA, then searched the entire cabin. Again, no contraband or illegal substances were found.

40. Without cause, the DEFENDANT AGENTS threatened, coerced, and required J.G. to remove her panties, lift her dress to her waist and expose her nakedness to all agents in the cabin.

41. J.G. was forcefully escorted to the restroom wherein all Defendant Agents were permitted to watch her urinate before returning her to the main area of the cabin.

42. Without cause, the DEFENDANT AGENTS threatened, coerced and required J.G. to remove a tampon and her genital cavity was inspected visually by the female currently known only as LETICIA.

43. This strip and cavity search took place in the plain view of male Security Officer THAPA and male assistant housekeeping manager YUZON. J.G.'s friend, K.B., and J.G.'s aunt who witnessed the strip search from the hallway.

44. J.G.'s aunt was not permitted in the room, did not consent to the strip search, nor were the circumstances explained to her.

45. J.G. was coerced and threatened into submitting to the strip search and did not consent.

46. At no time during the interrogation, strip search or cavity search did the Defendant Agents attempt to locate J.G.'s mother.

47. J.G. dressed and was escorted down to the ship's booking department.

48. At that time she was met by her mother and the Bahamian police.

49. Plaintiff and her mother were escorted off of the ship.

50. Bahamian police placed J.G. into an adult holding cell with an adult female where she remained until the following day.

51. It is alleged that J.G. was assaulted in the adult jail cell.

52. J.G. was released from the Bahamian jail the following day without penalty.

53. J.G. and her mother were required to locate alternative accommodations and travel and were not able to leave the Bahamas until two (2) days later.

COUNT I - NEGLIGENCE OF CARNIVAL FOR THE ACTS OF ITS EMPLOYEES

54. The Plaintiff, J.G., herein, re-alleges and incorporates by reference paragraphs one (1) through fifty-three (53) as is more fully stated herein.

55. Defendant, CARNIVAL, at all times hereto, owed Plaintiff a duty, as a fare-paying passenger, to transport the Plaintiff while exercising a reasonable degree of care and diligence for the Plaintiff's comfort and safety while aboard the vessel, SENSATION.

56. Despite CARNIVAL's duty to exercise said care and to exercise due diligence in protecting its passengers, including the Plaintiff, from its agents and employees illegal and/or outrageous acts, Defendant CARNIVAL negligently breached this duty in the following, including but not limited to:

(1) In failing to properly train, control, supervise, restrict and/or direct its employees, particularly its security officers, concerning the limitations on their right to arrest, detain, interrogate or search passengers onboard the SENSATION or other of Defendant's vessels.

57. As a direct result of defendants' aforementioned conduct, plaintiff has suffered physical pain and suffering, mental anguish, personal inconvenience, psychological injuries, loss of capacity for the enjoyment of life, humiliation and embarrassment. Plaintiff has also incurred medical expenses for the care and treatment of her injuries, many of which injuries are permanent or continuing in nature. Wherefore Plaintiff demands judgment against defendants for any all damages

allowable under the law.

COUNT II - FRAUD AND MISREPRESENTATION

58. The Plaintiff, J.G., re-alleges and incorporates by reference paragraphs one (1) through fifty-eight (58) as is more fully stated herein.

59. During the initial interrogation of the Plaintiff conducted by THAPPA, YUZON and LETICIA, which became increasingly belligerent and intimidating, the ship's agents repeatedly said words to the effect that if J.G. would just admit the "marijuana" was hers, the interrogation would cease and that she could continue her cruise.

60. Relying on the above statements, J.G. stated the substance was hers.

61. The agents knew that their above statements were false as CARNIVAL takes the position that they have a "zero tolerance" policy regarding contraband and are required to report all infractions to local authorities, which, in this case, were the Bahamian police.

62. The false statements were made of a material fact to induce the Plaintiff to "confess" that the substance was marijuana and that it was hers.

63. As a result of the above, J.G. who was a minor at the time, was involuntarily put ashore and subsequently put in an adult jail in the Bahamas.

64. As a direct result of defendants' aforementioned conduct, plaintiff has suffered physical pain and suffering, mental anguish, personal inconvenience, psychological injuries, loss of capacity for the enjoyment of life, humiliation and embarrassment. Plaintiff has also incurred medical expenses for the care and treatment of her injuries, many of which injuries are permanent or continuing in nature. Wherefore Plaintiff demands judgment against defendants for any all damages allowable under the law.

COUNT III - ASSAULT ON PLAINTIFF BY CARNIVAL EMPLOYEES

65. The Plaintiff, J.G., herein, re-alleges and incorporates by reference paragraphs one (1) through sixty-five (65) as is more fully stated herein.

66. The actions by CARNIVAL's employees THAPPA, YUZON, and LETICIA in entering Plaintiff's cabin, confining her there without her consent, blocking the door, forcefully grabbing her arm, and ultimately subjecting her to a strip search, as set out above, constituted an assault upon the plaintiff.

67. Plaintiff did not, and could not have consented to her confinement nor the strip search of her person.

68. Plaintiff was in fear for her safety and only submitted to Defendant's demands and orders because of the immediate threat of violence caused by the show of force.

69. At all material times hereto, Defendant Agents were servants of Carnival.

70. At all material times hereto, Defendant Agents were on duty with Carnival.

71. Defendant Agents were acting in the course of their employment with Carnival.

72. Defendant Agents' actions occurred while the contract for transport of Plaintiff by Carnival was being accomplished.

73. During the course of such employment, Defendant Agents, caused an immediate apprehension of Plaintiff that she would be subjected to an invasive, unwanted physical contact and assault, placed Plaintiff in fear of physical security and well-being, had unwanted physical contact with Plaintiff, sexually exploiting her, causing her to remove and displace her clothes, humiliating and degrading her, and visually inspecting her genital cavity.

74. As a result of the above, Plaintiff suffered extreme anxiety, fear and embarrassment from the assault.

75. As a direct result of defendants' aforementioned conduct, plaintiff has suffered physical pain and suffering, mental anguish, personal inconvenience, psychological injuries, loss of capacity for the enjoyment of life, humiliation and embarrassment. Plaintiff has also incurred medical expenses for the care and treatment of her injuries, many of which injuries are permanent or continuing in nature. Wherefore Plaintiff demands judgment against defendants for any all damages allowable under the law.

COUNT IV - SEXUAL HARASSMENT

76. The Plaintiff, J.G., herein, re-alleges and incorporates by reference paragraphs one (1) through seventy-five (75) as is more fully stated herein.

77. The strip search where CARNIVAL's employees required J.G. to remove her underwear and tampon after lifting her dress in order to reveal her naked from the waist down, particularly in the presence of males THAPA and YUZON, constituted sexual harassment of J.G. by CARNIVAL's employees.

78. At all material times hereto, Defendant Agents were servants of Carnival.

79. At all material times hereto, Defendant Agents were on duty with Carnival.

80. Defendant Agents were acting and in the course of their employment with Carnival.

81. Defendant Agents' actions occurred while the contract for transport of Plaintiff by Carnival was being accomplished.

82. During the course of such employment, Defendant Agents, caused an immediate apprehension of Plaintiff that she would be subjected to an invasive, unwanted physical contact

and assault, placed Plaintiff in fear of physical security and well-being, had unwanted physical contact with Plaintiff, sexually exploiting her, causing her to remove and displace her clothes, humiliating and degrading her, and visually inspecting her genital cavity.

83. Plaintiff did not consent to her confinement nor the strip search of her person.

84. Plaintiff was in fear for her safety and only submitted to Defendant's demands and orders because she was lead to believe she had no choice but to obey.

85. As a result of the above, Plaintiff suffered extreme anxiety, fear and embarrassment from the assault.

86. As a direct result of defendants' aforementioned conduct, plaintiff has suffered physical pain and suffering, mental anguish, personal inconvenience, psychological injuries, loss of capacity for the enjoyment of life, humiliation and embarrassment. Plaintiff has also incurred medical expenses for the care and treatment of her injuries, many of which injuries are permanent or continuing in nature. Wherefore Plaintiff demands judgment against defendants for any all damages allowable under the law.

COUNT V- BATTERY

87. The Plaintiff, J.G., herein, re-alleges and incorporates by reference paragraphs one (1) through eighty-six (86) as is more fully stated herein.

88. During the course of the interrogation and strip search of J.G. in her cabin, the female, LETICIA, forcefully grabbed J.G. by her arm.

89. Such action by LETICIA was unnecessary and uncalled for as J.G. made no attempt to physically resist or escape.

90. J.G. did not consent to being touched or grabbed by LETICIA.

91. Such actions by LETICIA constituted a battery upon J.G.

92. As a direct result of defendants' aforementioned conduct, plaintiff has suffered physical pain and suffering, mental anguish, personal inconvenience, psychological injuries, loss of capacity for the enjoyment of life, humiliation and embarrassment. Plaintiff has also incurred medical expenses for the care and treatment of her injuries, many of which injuries are permanent or continuing in nature. Wherefore Plaintiff demands judgment against defendants for any all damages allowable under the law.

COUNTY VI - NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

93. The Plaintiff, J.G., herein re-alleges and incorporates by reference paragraphs one (1) through ninety-two (92) as is more fully stated herein.

94. Plaintiff did not consent to her confinement nor the strip search of her person.

95. Plaintiff was in fear for her safety and only submitted to Defendant's demands and orders because she believed she had no choice but to obey.

96. As a result of the above, Plaintiff suffered extreme anxiety, fear and embarrassment from the assault.

97. The defendant, CARNIVAL, is vicariously liable to the plaintiff for the actions of CARNIVAL's agents and employees.

98. As a result of the above, J.G. suffered severe emotional pain and distress requiring medical treatment.

99. The distress alleged herein is the result of the physical injury caused by the negligence or fault of CARNIVAL's agents.

100. The distress alleged herein is the result of the Plaintiff having been at actual risk of

physical injury and such risk was caused by the negligence or fault of CARNIVAL's agents.

101. As a direct result of defendants' aforementioned conduct, plaintiff has suffered physical pain and suffering, mental anguish, personal inconvenience, psychological injuries, loss of capacity for the enjoyment of life, humiliation and embarrassment. Plaintiff has also incurred medical expenses for the care and treatment of her injuries, including psychological counseling, many of which injuries are permanent or continuing in nature. Wherefore Plaintiff demands judgment against defendants for any all damages allowable under the law.

COUNT VI - INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

102. The Plaintiff, J.G., herein, re-alleges and incorporates by reference paragraphs one (1) through one hundred and two (102) as is more fully stated herein.

103. The strip search where CARNIVAL's employees required J.G. to remove her underwear and tampon after lifting her dress above her waist in order to reveal her naked from her waist down, constituted a deliberate or reckless infliction of mental suffering, humiliation and embarrassment, particularly when an earlier search of her purse and stateroom revealed no contraband.

104. Plaintiff did not consent to her confinement nor the strip search of her person.

105. Plaintiff was in fear for her safety and only submitted to Defendant's demands and orders because she was led to believe she had no choice but to obey.

106. As a result of the above, Plaintiff suffered extreme anxiety, fear and embarrassment from the assault.

107. In addition to the above, the conduct by the Defendant's agents was outrageous in the following manner:

(1) Although there was a female present, the strip search was conducted in the presence of two male employees: YUZON and THAPA .

(2) One of the males, YUZON, was not a security officer but was instead an assistant housekeeping manager.

108. Defendants, THAPA, YUZON, and LETICIA, are directly responsible for the intentional infliction of emotional distress suffered by the plaintiff.

109. The conduct of CARNIVAL through its Defendant Agents was so outrageous in character and so extreme in degree as to go beyond all possible bounds of decency and should be regarded as atrocious and utterly intolerable in a civilized community.

110. The defendant, CARNIVAL, is vicariously liable to the plaintiff for the actions of CARNIVAL's agents and employees.

111. As a result of the above, J.G. suffered severe emotional pain and distress requiring medical treatment.

112. As a direct result of defendants' aforementioned conduct, plaintiff has suffered physical pain and suffering, mental anguish, personal inconvenience, psychological injuries, loss of capacity for the enjoyment of life, humiliation and embarrassment. Plaintiff has also incurred medical expenses for the care and treatment of her injuries, including psychological counseling, many of which injuries are permanent or continuing in nature. Wherefore Plaintiff demands judgment against defendants for any all damages allowable under the law.

COUNT VII
DEFENDANT CARNIVAL'S BREACH OF CONTRACT FOR SAFE TRANSPORTATION

113. The Plaintiff, J.G., herein, re-alleges and incorporates by reference paragraphs one

(1) through one hundred and twelve (112) as is more fully stated herein.

114. The Defendant, CARNIVAL, was a common carrier at all times hereto and as such owed the Plaintiff, J.G., as a fare-paying passenger, a duty to transport the Plaintiff while exercising a reasonable degree of care to protect the passenger from misconduct by its crew members.

115. The Defendant, CARNIVAL, breached this duty when its employees engaged in action requiring the Plaintiff to be subject to a strip search of her person as set out herein.

116. The Defendant, CARNIVAL, is strictly and absolutely, liable for the actions of its agents or employees.

117. As a direct result of defendants' aforementioned conduct, plaintiff has suffered physical pain and suffering, mental anguish, personal inconvenience, psychological injuries, loss of capacity for the enjoyment of life, humiliation and embarrassment. Plaintiff has also incurred medical expenses for the care and treatment of her injuries, many of which injuries are permanent or continuing in nature. Wherefore Plaintiff demands judgment against defendants for any all damages allowable under the law.

COUNT VIII - PUNITIVE DAMAGES

118. The Plaintiff, J.G., herein, re-alleges and incorporates by reference paragraphs one (1) through one hundred and seventeen (117) as is more fully stated herein.

118. Punitive damages may be awarded in maritime tort actions where the defendant's actions were intentional, deliberate or so wanton and reckless as to demonstrate a conscious disregard of the rights of others, particularly fare-paying passengers.

119. In the instant case, J.G., a female minor was aggressively interrogated without any

attempt to have her mother present and forced to submit to a strip search of her person in the presence of two (2) male employees.

120. To the best knowledge and belief of the Plaintiff, Carnival's Defendant Agents were acting in the course of employment, according to the direction and training they had received from Carnival and their behavior was known to and ratified by Carnival.

121. Further, the Defendant, CARNIVAL, in the hiring, training, screening and supervision of its employees, particularly those designated as "security" persons; who were acting as *de facto* police officers, intentionally, deliberately or wantonly and recklessly failed to formulate rules or regulation, or proper training, for security persons concerning limitations on arrest, detentions, interrogations and searches.

122. As a direct result of defendants' aforementioned conduct, plaintiff has suffered physical pain and suffering, mental anguish, personal inconvenience, psychological injuries, loss of capacity for the enjoyment of life, humiliation and embarrassment. Plaintiff has also incurred medical expenses for the care and treatment of her injuries, including psychological counseling, many of which injuries are permanent or continuing in nature. Wherefore Plaintiff demands judgment against defendants for any and all damages allowable under the law.

123. Punitive damages are appropriate in this case to punish CARNIVAL and to deter CARNIVAL and others from engaging in such outrageous behavior in the future.

WHEREFORE the plaintiff J.G. respectfully demands that this Court order, adjudge, and decree that the Defendants CARNIVAL, THAPA, YUZON, and LETICIA are liable to the Plaintiff, and that the Defendants, jointly and severably, pay to the Plaintiff the damages sustained by them, including punitive damages, together with prejudgment interest and Plaintiff's costs.

Plaintiff demands a trial by jury on all issues so triable

DATED: 15 March, 2012

Respectfully submitted,


GERALD A. MCGILL (145420)
Email: GMcGill@LevinLaw.com
KIMBERLY R. LAMBERT (14479)
Email: KLambert@LevinLaw.com
Levin, Papantonio, Thomas,
Mitchell, Rafferty & Proctor, P.A.
316 South Baylen Street, Suite 600
Pensacola, FL 32502
Telephone: (850)435-7077
Facsimile: (850)436-6047
Attorneys for Plaintiff [J.G.]

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished to the Sheriff of Leon County, Civil Division, Florida by regular mail on 15th of March, 2012, for service on all counsel or parties of record on the service list below.


GERALD A. MCGILL

SERVICE LIST

CARNIVAL CORPORATION
MAYANK THAPA
RENTOR YUZON
LETICIA
C/O NRAI SERVICES, INC. REGISTERED AGENT
515 EAST PARK AVENUE
TALLAHASSEE, FLORIDA 32301