

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF WASHINGTON
3 AT SEATTLE

4 AT LAW AND IN ADMIRALTY

5 JANE DOE,

6 Plaintiff,

7 vs.

8 HOLLAND AMERICA LINE N.V.
9 D/B/A HOLLAND AMERICA LINE N.V.
10 LLC; HAL ANTILLEN N.V.; HOLLAND
11 AMERICA LINE INC., AND HOLLAND
12 AMERICA LINE-USA INC

13 Defendant

CASE NO.:

COMPLAINT FOR
PERSONAL INJURIES

14 **COMPLAINT FOR DAMAGES**

15 The Plaintiff sues the Defendants and says:

16 **THE PARTIES AND JURISDICTION**

17 1. This is an action seeking damages in excess of \$75,000.00, exclusive of interest,
18 costs and attorney's fees.

19 2. Federal subject matter jurisdiction arises under and is by virtue of the admiralty
20 or maritime jurisdiction pursuant to 28 U.S.C. § 1333 and § 1332, and is being filed in Federal
21 Court as required by the venue selection clause in the Passenger Contract Ticket issued by the
22 Defendants.

1 3. Venue is proper in this Court pursuant to 28 U.S.C. Sec. 1391 and personal
2 jurisdiction lies as to all Defendants because at all times material hereto one or more of the
3 Defendants have their principal place of business in this District, have an office and agents in this
4 District to conduct business here, actually conduct and engage in substantial business activity in
5 this District, engaged in the acts of negligence more fully described herein in this District, and
6 have designated this Court as the proper venue in the venue selection clause in the terms and
7 conditions of the passenger ticket contract.

8
9 4. The Plaintiff JANE DOE is *sui juris* and is a resident of Oakland County,
10 Michigan. “JANE DOE” is an alias used because of the nature of the events in this matter. The
11 Defendants are aware of the identity of JANE DOE. The At all times material hereto, the Plaintiff
12 was a fare paying passenger onboard the cruise ship on which the subject incident occurred, the
13 Nieuw Amsterdam, owned and/or operated by the Defendants. In the alternative, at all times
14 material hereto, the Plaintiff was a Jones Act seaman employed onboard the subject vessel as a
15 staff performing administrative and clerical duties during the cruise.

16 5. The Defendant HOLLAND AMERICA LINE N.V. d/b/a HOLLAND AMERICA
17 LINE N.V. LLC is and at all times material hereto was a foreign corporation which has its
18 principal place of business in Seattle, Washington, which does business in King County
19 Washington, and which lists its registered agent with the Washington Secretary of State as
20 Holland America Line Inc. a corporation authorized and existing under the laws of the state of
21 Washington. At all times material hereto, this Defendant operated the subject cruise ship *Nieuw*
22 *Amsterdam* and/or was responsible for the negligence which caused the subject incident and
23 injuries and for the hiring, screening, training, monitoring, and/or supervising of the crewmember
24 who perpetrated the subject assault and battery on the Plaintiff on the subject cruise ship.

1 6. The Defendant HAL ANTILLEN N.V. LLC is and at all times material hereto was
2 a foreign corporation which does business in King County, Washington, which is a subsidiary of
3 Carnival Corporation & PLC, which held title to, owned, and/or operated the subject cruise ship
4 *Nieuw Amsterdam* on which this incident occurred, and which was responsible for the negligence
5 which caused the subject incident and injuries and employed and/or was responsible for the hiring,
6 screening, training, monitoring, and/or supervising of the crewmember who perpetrated the subject
7 assault and battery on the subject cruise ship.

8
9 7. The Defendant HOLLAND AMERICA LINE INC. is and at all times material
10 hereto was a corporation authorized and existing under the laws of the state of Washington, has its
11 principal place of business in Seattle, Washington, does business in King County, Washington,
12 operated the cruise ship *Nieuw Amsterdam* on which the subject incident occurred, was
13 responsible for the negligence which caused the subject incident and injuries, and employed and/or
14 was responsible for the hiring, screening, training, monitoring, and/or supervising of the
15 crewmember who perpetrated the subject assault and battery on the subject cruise ship.

16 8. The Defendant HOLLAND AMERICA LINE-USA INC. is and at all times
17 material hereto was a corporation authorized and existing under the laws of the state of Delaware,
18 has its principal place of business in Seattle, Washington, does business in King County,
19 Washington, operated the cruise ship *Nieuw Amsterdam* on which the subject incident occurred,
20 was responsible for the negligence which caused the subject incident and injuries, and employed
21 and/or was responsible for the hiring, screening, training, monitoring, and/or supervising of the
22 crewmember who perpetrated the subject assault and battery on the subject cruise ship.

23
24 9. The Defendants referenced above shall hereinafter be referred to collectively as
25 HOLLAND AMERICA, DEFENDANTS, or the Cruise Line.

1 10. All conditions precedent for filing and maintaining this action have been fulfilled,
2 have been waived, or do not apply.

3 **ALLEGATIONS COMMON TO ALL COUNTS**

4 11. **DATE OF INCIDENT.** The incident occurred on or about Friday, February 14,
5 2014.

6 12. **LOCATION OF INCIDENT.** The incident occurred on the vessel *MS Nieuw*
7 *Amsterdam*, a ship in navigable waters while the Plaintiff was a passenger aboard. Accordingly,
8 the Plaintiff's claims are governed by the General Maritime Law.

9 13. **STATUS OF PLAINTIFF AS OF DATE AND TIME OF INCIDENT.** At all
10 times and material hereto, the Plaintiff was a passenger on the subject cruise ship described herein
11 and, accordingly, was an invitee while on the vessel. The Plaintiff does not have a copy of the
12 subject ticket but the Defendant does. In the alternative, the Plaintiff at all times material hereto
13 was a seaman in the service of the vessel.

14 14. **BACKGROUND FOR THE INCIDENT: THE BUSINESS MODEL;
15 FAILURE TO SCREEN, TRAIN, SUPERVISE, AND MONITOR.** HOLLAND AMERICA
16 chooses to hire its crew from third world countries or from countries where the economy is bleak
17 and the unemployment rate is high. The Cruise Line chooses to hire from these countries to pay
18 low wages and to get a willing workforce to work on a ship away from home for months at a time
19 and for 7 days a week, often 12 to 14 hours a day. For background checks, the Cruise Line utilizes
20 agents or "hiring partners" in these countries and relies on the "hiring partners" in the third world
21 country to obtain background information on these candidates. But the investigation into the
22 background and history of the prospective crew member in these countries, because of the lack of
23 infrastructure, cannot be complete or verified.

1 15. HOLLAND AMERICA then fails reasonably under these circumstances to
2 examine and test the applicants for a job which involves a high level of contact with the public.
3 The Cruise Line also fails to train these crewmembers well and then fails to monitor the
4 crewmembers. HOLLAND AMERICA'S failure to select, train, and control its male crew
5 members and/or officers to stay away from female passengers is disastrous.

6 16. HOLLAND AMERICA hires male crew members and/or officers who are from a
7 variety of different cultures. These crew members and/or officers are away from their wives and
8 girlfriends for months at a time. The crew members and/or officers are inadequately screened and
9 trained to deal with female passengers on its cruise ships.

10 17. HOLLAND AMERICA knows and, upon information and belief, has
11 documentation of other crew members in the past committing assaults, batteries, and sexual
12 batteries including rapes onboard the ships in its fleet.

13 18. HOLLAND AMERICA advertises and assures the public including its passengers
14 and prospective that its cruise ships are safe and secure for the average American public. The
15 Defendant represents and admits on its website that its passengers should "entrust us with your
16 safety...".

17 19. Despite these representations and despite this lack of proper screening, training and
18 monitoring of the onboard personnel, HOLLAND AMERICA fails to utilize a proper level of
19 technology, i.e., security cameras and monitoring, and proper security procedures to provide a safe
20 environment to its passengers.

21 20. HOLLAND AMERICA provided a room key to the perpetrator in this instance
22 without proper restrictions on its use. Then the Cruise Line failed to have security cameras in the
23 passenger hallways and/or failed to monitor those cameras at crucial times or whenever there is a
24 COMPLAINT FOR
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1 disturbance and thus a reason to monitor. The Cruise Line then failed to provide a sufficient
2 number of security personnel on duty and failed to have systems and procedures to ensure that the
3 security personnel respond timely to an emergency situation such as an attack by one person, in
4 this case their own crewmember, on another person, in this case a passenger. HOLLAND
5 AMERICA hired, among others, Ketut Pujayasa from Indonesia to be a room service attendant
6 with access to the passenger cabins. Pujayasa, upon information and belief was hired after little
7 or no proper screening. HOLLAND AMERICA inadequately trained, screened, supervised, and
8 monitored the activities of Pujayasa even though HOLLAND AMERICA made Pujayasa a
9 room service attendant and gave Pujayasa a master key to enter staterooms or allowed Pujayasa
10 access to that card key and therefore the passenger cabins including the cabin of JANE DOE.
11

12 21. **DESCRIPTION OF THE INCIDENT.** On February 14, 2014, HOLLAND
13 AMERICA'S room service attendant onboard HOLLAND AMERICA'S *MS Nieuw*
14 *Amsterdam*, Ketut Pujayasa, used his company issued master key to enter the cabin of JANE
15 DOE. The crewmember laid in wait for JANE DOE on the stateroom balcony until nightfall.
16 When JANE DOE entered the dark room at approximately midnight, JANE DOE got ready for
17 bed. She climbed into bed and turned off the lights. She was awakened by the presence of
18 someone in her room and saw a shadow of a man, HOLLAND AMERICA'S Room Service
19 Attendant, Pujayasa.
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21 22. Pujayasa then pounced on and attacked this young woman. JANE DOE let out
22 several blood curdling screams for help as soon as the attack started. **No one responded.**
23 Pujayasa then punched JANE DOE with his fists. He slammed heavy blunt objects from the
24 cabin into JANE DOE'S head. He attempted to strangle her with his hands, and subsequently
25 used a telephone cord followed by a curling iron cord. He smashed her face so hard that she

1 suffered a laceration on the left cheek which required sutures and which caused a fracture of
2 that part of her skull. He hit the back of her head so hard that she suffered a laceration on the
3 right scalp which required staples. He beat her head and face so hard that she experienced
4 shifting of her teeth. All of the trauma to her head produced a traumatic brain injury. He bit the
5 passenger's hands so hard that he left bite marks. He threw her and hit her so hard that she
6 suffered a fracture of her spine at the upper lumbar level (L2) and significant and abundant
7 edema, swelling, bruising, and lacerations throughout her face, scalp, head, neck, back, front of
8 torso, arms, and legs and abrasions on both arms. Pujayasa strangled her with the cords so hard
9 that the cords left visible marks on her neck after the attack and the strangulation caused JANE
10 DOE to lose consciousness for a period of time during this attack. This violent, repeated
11 strangulation went on for some time and **no one responded**. Pujayasa, when JANE DOE was
12 unconscious, attempted to rape DOE and actually did physically and sexually batter her. When
13 JANE DOE regained consciousness, **no one had responded**. Pujayasa pulled JANE DOE to
14 the balcony railing in an attempt to throw her overboard into the dark sea at night. JANE DOE
15 screamed again. Yet again, **no one responded**. JANE DOE in desperation held onto the
16 balcony door handle to avoid being taken completely out to the balcony. This attack lasted
17 more than 45 minutes. **Yet no HOLLAND AMERICA personnel ever responded**.

19 23. HOLLAND AMERICA'S security was so lax that no one, security or other
20 personnel, responded to stop the attack or scare away the attacker despite the struggle and the
21 screaming of JANE DOE for her life. The delay in response in this situation was caused in part
22 by the insufficient number of security personnel on duty and by the procedures of HOLLAND
23 AMERICA whereby the passengers who heard the loud noises of the attack for an extended period
24 of time were not able to access the security personnel or security office directly. When a passenger

1 onboard dials 911, as passengers on that night did, the calls are routed to the front desk of the
2 cruise ship, i.e., to an employee in the hotel department, not to security. The front desk then
3 makes a determination as to how to respond. The Cruise Line failed to respond to the loud, violent
4 sounds of the attack despite the fact that the attack went on for an extended period of time, despite
5 the fact that passengers from surrounding cabins had called on the ship's phone to 911, and despite
6 the fact that this was an obvious emergency. To make matters worse, when a cruise personnel did
7 finally arrive at the scene in the hallway outside the cabin where the violent attack was taking
8 place, the personnel was not security personnel but was a front desk person. And the Cruise Line
9 employee who appeared at the scene did not even have access to the cabin. That is, HOLLAND
10 AMERICA allowed the perpetrator, a junior room service attendant, who beat and attempted to
11 murder the passenger, to have more access to room keys and thus to cabins than the person
12 responding to an emergency onboard.

14 24. Eventually, JANE DOE wrestled free from her attacker, opened the door to her
15 cabin on her own, and ran out into the hallway where other passengers had congregated. As
16 she ran out of the cabin, JANE DOE'S face and arms were covered with blood and she was half
17 naked.

18 25. The assault, battery, and sexual assault and battery described herein were
19 without the consent of the passenger JANE DOE.

20 26. JANE DOE's body was reported to be "painted with blood" from the beatings to
21 the head and other parts of her body. As a result of the assault, battery, and sexual assault and
22 battery described herein, JANE DOE has suffered injuries including traumatic brain injury;
23 fracture of the left frontal sinus part of her skull; fracture of her spine at the upper lumbar level
24 (L2); significant and abundant edema, swelling, bruising, and lacerations throughout her face,

1 scalp, head, neck, back, front of torso, arms, and legs; abrasions on both arms; bite marks to
2 both hands; and shifting of her teeth.

3 27. The actions of the HOLLAND AMERICA crew and/or employee Pujayasa were
4 unlawful and in violation of criminal statutes including 18 U.S.C. Sec. 1113 (attempted
5 murder) and 18 U.S.C. Sec. 2241 (a)(1) (aggravated sexual abuse) to which Pujayasa has pled
6 guilty in the District Court for the Southern District of Florida in the action styled *United States*
7 *of America v. Pujayasa*, S.D. Fla. Case No. 14-60047-CR-JEM.

8 28. The actions and conduct of HOLLAND AMERICA in hiring the personnel it
9 hires, in failing to perform any real background checks, in failing to reasonably and properly
10 screen or test the employees or prospective employees; in failing to reasonably and properly
11 train its employees; in failing to reasonably and properly monitor and supervise the activities of
12 these employees; in failing to monitor the hallways outside passenger cabins, in failing to put
13 into place a system where the passengers have real and direct access to security; in failing to
14 properly man the ship with a sufficient number of security officers so that a sufficient number
15 can be on duty at night to patrol the ship and be able to detect an emergency and to respond to
16 an emergency like this; in failing to restrict access of and to monitor cabin keys, all when it has
17 a history of crewmember assault, battery, sexual battery, and rape of passengers and knows
18 about the conditions under which its labor force operates caused or contributed to the cause of
19 this incident and therefore to the injuries and damages of the Plaintiff.
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21 29. The Plaintiff did not consent to any of the acts of violence, sexual contact, or
22 assault or battery described herein.
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24 30. **THESE ACTIONS ARE A BASIS FOR PUNITIVE DAMAGES.** These

25 actions by HOLLAND AMERICA whereby the Cruise Line hires crew members using the
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1 business model described above, in failing to perform any real and proper background checks;
2 in failing to reasonably and properly screen or test the employees or prospective employees; in
3 failing to reasonably and properly train its employees; in failing to reasonably and properly
4 monitor and supervise the activities of these employees; in failing to monitor the hallways
5 outside passenger cabins, in failing to put into place a system where the passengers have real
6 and direct access to a professional security force; in failing to properly man the ship with a
7 sufficient number of security officers so that a sufficient number can be on duty at night to
8 patrol the ship; in failing to put into place electronic or other means to monitor hallways,
9 cabins, and other aspects of the ship to detect and timely respond to an emergency where a
10 passenger is crying out for help and under brutal and violent attack and attempted murder in the
11 passenger's own cabin; in failing respond timely and appropriately to stop such an attack at an
12 early stage before the crewmember was able to injure the passenger severely; in failing to
13 restrict access of and to monitor cabin keys, all when it has a history of crewmember assault,
14 battery, sexual battery, and rape of passengers and knows about the conditions under which its
15 labor force operates is "wanton, willful, or outrageous conduct" and conduct which is owing to
16 gross negligence and willful, wanton, and reckless indifference for the rights of others, all of
17 which constitute a basis for punitive damages against HOLLAND AMERICA under the
18 General Maritime Law.
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20 31. Further, the perpetrator was unfit to be a seaman who served guests, who went to guest
21 cabins to deliver food, and who was given electronic key access to the passenger cabins, and
22 HOLLAND AMERICA was reckless in employing and retaining him. This also constitutes a
23 basis for punitive damages against HOLLAND AMERICA under the General Maritime Law.
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1 32. **DUTIES OWED BY THE DEFENDANT TO ITS PASSENGERS IN**
2 **REGARD TO THESE ACTIONS OF ITS CREW.** The Cruise Line is a common carrier of
3 passengers for hire. Accordingly, the General Maritime Law imposes on the Cruise Line a
4 “special non-delegable duty owed by the carrier to the passenger” toward its passengers to ensure
5 a safe passage in addition to the Cruise Line’s duty to act reasonably under the circumstances.
6 Safe passage includes the right to be free from assault and battery by crew members. Any such
7 assault or battery imposes on the Cruise Line liability for its negligence and for strict liability for
8 assault, battery, sexual assault and battery, rape and any criminal act. This duty owed by the Cruise
9 Line is a “special non-delegable duty owed by the carrier to the passenger”. *Morton v. De*
10 *Oliveira*, 984 F. 2d 289, 291-92 (9th Cir. 1993), *Doe v. Celebrity Cruises, Inc.*, 394 F. 3d 891, 907
11 (11th Cir. 2004). See also, *New Orleans and N.E.R. Co. v. Jopes*, 142 U.S. 18, 12 S.Ct. 109, 35
12 L.Ed. 919 (1891); *New Jersey Steam-Boat Co. v. Brockett*, 121 U.S. 637, 7 S.Ct. 1039, 30 L.Ed.
13 1049 (1887); Thus, the Cruise Line has an “unconditional responsibility” for its employees
14 misconduct. *Morton v. De Oliveira*, 984 F. 2d 289, 291-92 (9th Cir. 1993), *Tullis v. Fidelity and*
15 *Casualty Company of New York*, 397 F. 2d 22, 23 (5th Cir. 1968).

17 33. **DUTIES OWED BY THE DEFENDANT TO ITS PASSENGERS IN**
18 **GENERAL.** The Defendant owes a “duty to exercise reasonable care for the safety of its
19 passengers” including the Plaintiff herein. See, *Hall vs. Royal Caribbean Cruises, Limited*, 2004
20 A.M.C. 1913, 2004 WL 1621209, 29 FLWD 1672, Case No. 3D03-2132 (Fla. 3d DCA Opinion
21 filed July 21,2004). The Defendant also owes a “duty to exercise reasonable care under the
22 circumstances”. See, *Harnesk vs. Carnival Cruise Lines, Inc*, 1992 AMC 1472, 1991 WL 329584
23 (S. D. Fla. 1991). The Defendant’s “duty is to warn of dangers known to the carrier in places
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1 where the passenger is invited to, or may reasonably be expected to visit.” See, *Carlisle vs.*
2 *Ulysses Line Limited, S.A.*, 475 So. 2d 248 (Fla. 3d DCA 1985).

3 34. **BASES OF THE DUTIES OWED.** The duties of the Defendant Cruise Line in
4 this case are created by:

5 a. The General Maritime Law as stated above in regard to the duty to exercise reasonable
6 care for the safety of passengers and the non-delegable duty to provide safe passage to its
7 passengers;

8 b. The cruise line’s voluntarily undertaking to provide safety and security for its passengers,
9 security personnel, security cameras and surveillance, and security processes and
10 procedures onboard its ships; and

11 c. The facts and circumstances surrounding this situation which in addition to the allegations
12 above include:

13
14 i. There is a special relationship between HOLLAND AMERICA and the
15 perpetrator of the attack on the Plaintiff; HOLLAND AMERICA employed the
16 perpetrator onboard the cruise ship operated by HOLLAND AMERICA at the
17 time of the attack and HOLLAND AMERICA provided to the perpetrator
18 room and board on the cruise ship, training for his job, and sponsorship for the
19 necessary visas to work on the subject foreign flagged vessel. HOLLAND
20 AMERICA therefore had a duty to control the conduct of the perpetrator;
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1 ii. There is a special relationship between HOLLAND AMERICA and the
2 Plaintiff herein; HOLLAND AMERICA is a common carrier of passengers for
3 hire and the Plaintiff at the time of the attack was a passenger onboard the *MS*
4 *Nieuw Amsterdam* cruise ship. In the alternative, there is a special
5 relationship between HOLLAND AMERICA and the Plaintiff where the
6 Plaintiff at the time of the attack was a seaman serving onboard this
7 HOLLAND AMERICA ship and HOLLAND AMERICA is the Jones Act
8 employer of the Plaintiff; The Plaintiff therefore had a right to protection
9 from the actions of the crew of the HOLLAND AMERICA ship;

10 iii. The place and character of the business of HOLLAND AMERICA is such that
11 there is a special or peculiar temptation or opportunity for criminal misconduct
12 affecting the passengers where the crewmembers are young men, from third
13 world countries, working 7 days a week, 12 to 14 hours/day, living and
14 working onboard the cruise ship and without physical contact with and away
15 from their families and wives for months at a time, and surrounded at all times
16 by relaxed, vacationing young women;

17 iv. The place and character of the business of HOLLAND AMERICA is such that
18 HOLLAND AMERICA should reasonably anticipate criminal conduct on the
19 part of the crew;
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- 1 v. The past experience of HOLLAND AMERICA is such that HOLLAND
2 AMERICA should reasonably anticipate criminal conduct on the part of the
3 crew. HOLLAND AMERICA has knowledge that crew members over the
4 years before this incident engaged in crimes onboard HOLLAND AMERICA
5 cruise ships including assault, battery, sexual assault, sexual battery, and rape
6 on passengers and on other crewmembers;
- 7 vi. The cruise line affords its crew, these young men, with access via a card key to
8 the cabins of the passengers including female passengers and specifically
9 JANE DOE herein;
- 10 vii. A cruise is a situation in which the crewmembers and the passengers are
11 isolated on a ship in an open ocean and a dependent on the cruise line to
12 prevent and protect against crime committed by crew members;
- 13 viii. A cruise is a situation where a passenger and crewmembers have a
14 justifiable expectation of being safe in his or her cabin;
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16 ix. The Cruise Line employs adult men from cultures with different views on
17 women and sex including from Indonesia, the country of origin of the
18 perpetrator crewmember herein;
- 19 x. The Cruise Line has knowledge of and allows for male crew members to
20 fraternize with female passengers;
- 21 xi. The Cruise Line does not have onboard a governmental police force; Security
22 onboard its ships is provided by employees of the cruise ship;
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1 xii. The Cruise Line by its representations online, in print and other advertising,
2 and in its literature represents that it will undertake to provide security for a
3 safe and secure environment for passengers;

4 xiii. The Cruise Line has voluntarily undertaken to provide security officers,
5 security keys, surveillance, security equipment, and security procedures
6 onboard;

7 xiv. The Cruise Line knows that passengers onboard are vacationing. Because of
8 that and because of the Cruise Line's advertising, passengers including the
9 Plaintiff herein let their guard down and relax while onboard; and

10 xv. The Cruise Line in an effort to save money and make more profits hires poorly
11 educated, poorly trained crewmembers from third world countries, such as the
12 country from which the subject crewmember was from, so that the Cruise Line
13 can pay these crewmembers low wages which U.S. and other workers would
14 not tolerate or accept. These countries, such as Indonesia where the perpetrator
15 crewmember herein was from, have third world infrastructure and poor
16 criminal and vocational record keeping. The result is that the Cruise Line
17 cannot obtain in depth or accurate background checks on the prospective
18 crewmembers, which is especially important because the Cruise Line does not
19 administer personality or related psychological testing to the prospective or
20 newly hired crewmembers.
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1 **COUNT I**
2 **DIRECT LIABILITY OF HOLLAND AMERICA:**
3 **NEGLIGENT HIRING, SCREENING,**
4 **SUPERVISING, MONITORING, TRAINING, AND RETAINING**

5 35. The Plaintiff, JANE DOE, hereby adopts and realleges each and every allegation
6 in paragraphs 1 through 34, above.

7 36. This is an action for HOLLAND AMERICA'S negligent hiring, screening,
8 supervising, monitoring, training, and retaining. HOLLAND AMERICA owes to its passengers a
9 duty to use reasonable care under the circumstances. Those duties and the facts and special
10 relationships creating those duties are more fully described above.

11 37. HOLLAND AMERICA knew or in the exercise of reasonable care should have
12 known that on board its cruise ships there have been numerous assaults, batteries, sexual assaults
13 and batteries, rapes, and attacks perpetrated by crew on passengers. Given the circumstances of the
14 hiring process, the job itself, and the conduct of the crew onboard the ships—more fully described
15 herein— assault, battery, and sexual assault and battery by crew members is an ongoing and
16 repetitive problem and therefore foreseeable.

17 38. The Defendant cruise line breached its duty to exercise reasonable care under the
18 circumstances by its actions and conduct including but not limited to the following:

- 19 a. Failing to hire crew only from countries with infrastructure which ensures in
20 depth and accurate criminal, vocational, mental health, and other background
21 checks and investigation;

- 1 b. Failing to screen reasonably and accurately people applying for a crew position
2 or crewmembers after they are hired for criminal, vocational, mental health,
3 and other background information through reasonable and proper investigation
4 and testing;
- 5 c. Failing to supervise and monitor the activities of crewmembers onboard its
6 ships especially crewmembers who have access to passenger room keys, with
7 personnel, electronic means, appropriate rules and procedures, and/or proper
8 enforcement of rules and procedures;
- 9 d. Failing to train and counsel its crewmembers and their supervisors all during
10 the employment to follow rules and procedures, to stay out of and away from
11 passenger cabins, to respect female passengers, to control anger and anxiety, to
12 remain calm, to report crew or passenger misconduct or other issues, and to
13 refrain from assaults, batteries, and sexual assaults and batteries;
- 14 e. Failing to retain crewmembers reasonably under these circumstances by
15 evaluating crew reasonably, timely, and in sufficient depth and by taking action
16 on the evaluations of currently employed crewmembers for problems, rule and
17 procedure violations, anger or anxiety control issues, reactions to crew and
18 passenger conduct, and tendencies toward assaults and batteries;
- 19 f. Failing otherwise to fulfill representations made by HOLLAND AMERICA on
20 its website, online, in their literature, and otherwise about the safety and
21 security of passengers in their own cabins;
- 22 g. Failing otherwise to make, create, and maintain a safe environment for
23 passengers in their own cabins, including the Plaintiff herein;
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1 h. Failing to comply with applicable industry and other standards, statutes,
2 and/or regulations the violation of which negligence per se and/or evidence
3 of negligence and/or; and

4 i. Failing to comply with applicable industry standards, statutes, and/or
5 regulations which invokes the Pennsylvania Rule and shifts the burden of
6 proof to the Defendant in the proof of negligence or proof of the absence of
7 negligence.
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9 39. Holland America by failing to hire, screen, monitor, supervise, train, and retain
10 crewmembers reasonably and properly proximately caused and allowed this attack and the
11 injuries and damages suffered by the Plaintiff. The injuries and damages suffered by the
12 Plaintiff as a result of the negligence of the Defendants include but are not limited to economic
13 damages in the past and in the future on a permanent basis including but not limited to
14 expenses for medical and psychological care and treatment, household and other expenses, past
15 lost income, and future loss of the ability or capacity to earn income; and non-economic
16 damages in the past and in the future on a permanent basis including bodily injury, pain,
17 suffering, mental anguish, loss of the enjoyment of life, physical impairment and disability,
18 inconvenience, scarring, and disfigurement, all of which in the past and in the future.

19 WHEREFORE, the Plaintiff demands judgment against HOLLAND AMERICA for all
20 damages to which she is entitled under the General Maritime Law and otherwise including but
21 not limited to economic damages suffered in the past and in the future on a permanent basis by
22 the Plaintiff including but not limited to expenses for medical and psychological care and
23 treatment, household and other expenses, loss of income, and loss of the ability and capacity to
24 earn income in the future; non-economic damages including but not limited to bodily injury,
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1 pain, suffering, mental anguish, loss of the enjoyment of life, physical impairment, disability,
2 inconvenience, scarring, and disfigurement; punitive damages, all court costs; all interest
3 which accrues from the date of the incident on all economic and non-economic damages under
4 the General Maritime Law; and any and all other damages which the Court deems just and
5 proper.

6
7 **COUNT II**
8 **DIRECT LIABILITY OF HOLLAND AMERICA:**
9 **NEGLIGENT PROCEDURES AND OPERATIONS**

10 40. The Plaintiff, JANE DOE, hereby adopts and realleges each and every allegation
11 in paragraphs 1 through 34, above.

12 41. This is an action for negligent procedures and operations. HOLLAND AMERICA
13 owes to its passengers a duty to use reasonable care under the Circumstances. Those duties and
14 the facts and special relationships creating those duties are more fully described above.

15 42. HOLLAND AMERICA knew or in the exercise of reasonable care should have
16 known that onboard its cruise ships there have been numerous assaults, batteries, sexual assaults
17 and batteries, rapes, and attacks perpetrated by crew on passengers. Given the circumstances of the
18 hiring process, the job itself, and the conduct of the crew onboard the ships—more fully described
19 herein— assault, battery, and sexual assault and battery by crew members is an ongoing and
20 repetitive problem and therefore foreseeable to take place in any place to which the crew has
21 access, which in this case is the cabin of a passenger.

22 43. HOLLAND AMERICA breached its duty to exercise reasonable care under the
23 circumstances by its actions and conduct including but not limited to the following:
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- 1 a. Failing to make, create, and maintain a safe environment for passengers in their
2 own cabins, including the Plaintiff herein;
- 3 b. Failing to fulfill their representations made in their literature, website, online, and
4 otherwise about the safety and security of passengers onboard;
- 5 c. Failing to prevent its crewmembers from committing crimes or violent acts to
6 passengers onboard;
- 7 d. Failing sufficiently to monitor passenger activity and excessive noise and human
8 screaming which would indicate an emergency and a cry for help;
- 9 e. Failing sufficiently to monitor and supervise the conduct, activities, and
10 whereabouts of its crew onboard its own cruise ship especially crew such as the
11 perpetrator of this event who had access to passenger cabins;
- 12 f. Failing to provide sufficient security personnel to be able to adequately monitor the
13 activities of people and the physical plant of the ship and to respond to
14 emergencies timely and adequately so as to prevent injuries to personnel onboard
15 including passengers such as the Plaintiff;
- 16 g. Failing to establish adequate procedures for passengers to contact security in case
17 of a security problem;
- 18 h. Failing to respond timely to complaints of attacks or altercations within a cabin;
- 19 i. Failing to implement reasonable and proper procedures for the safety and security
20 of the passengers onboard the ship including the safety of female passengers;
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- 1 j. Failing to warn female passengers that the ship is not a safe place, that there are
- 2 predators among Holland America's crew, and that the security systems and
- 3 personnel onboard ship were not adequate to protect passengers from
- 4 crewmembers attacking passengers in their cabins;
- 5 k. Failing to have video surveillance in passenger hallways, balconies, and other areas
- 6 to allow the vessel to monitor the activities of its passengers and crew and to deter
- 7 crew from committing crimes and violent acts onboard;
- 8 l. Failing to otherwise monitor or keep track of crewmembers especially those crew
- 9 who have access to passenger cabins and areas and the keys to those cabins;
- 10 m. Failing to prevent crew from engaging in assaults, batteries, sexual assaults and
- 11 batteries, and rape onboard the subject vessel;
- 12 n. Failing to recruit crew from countries where proper and reliable background
- 13 checks into criminal, vocational, and mental health histories can be obtained;
- 14 o. Failing to reasonably and properly screen crew members who would have card key
- 15 access to passenger cabins;
- 16 p. Failing to provide sufficient rules, regulations, policies, and/or procedures for
- 17 Holland America employees regarding interaction with passengers and regarding
- 18 access to passenger cabins and keys to passengers cabins;
- 19 q. Failing to reasonably and properly enforce rules, regulations, policies and
- 20 procedures for Holland America employees regarding interaction with passengers
- 21 and regarding access to passenger cabins and keys to passengers cabins;
- 22 r. Failing to implement reasonable and proper methods of preventing crime by
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- 25 Holland America employees;

- 1 s. Failing to comply with applicable industry and other standards, statutes, and/or
2 regulations the violation of which negligence per se and/or evidence of
3 negligence;
- 4 t. Failing to restrict card key and passenger cabin access only to essential
5 personnel onboard the ship, only to personnel during the times when the
6 personnel need to be in the passengers' cabins for the legitimate purpose of their
7 job, only to personnel when onboard security is able to monitor those personnel,
8 only to personnel who are trustworthy, only to personnel whose criminal,
9 vocational, and mental health backgrounds have been reasonably investigated
10 and verified, and only to personnel who have been appropriately tested;
- 11 u. Failing to implement reasonable and proper procedures for the safety and security
12 of the passengers onboard the ship including but not limited to security policies
13 and procedures commensurate with the type of business conducted therein, namely
14 an isolated party ship where passengers have a reasonable and justifiable
15 expectation of feeling safe in their own cabin, approaching their own cabin, and
16 elsewhere on the ship;
- 17 v. Failing to have reasonable and proper methods of preventing crime to be
18 committed by crewmembers entering passenger cabins;
- 19 w. Failing to take additional security measures after being put on notice that the
20 security measures in force are inadequate;
- 21 x. Failing to implement a method of operation which was reasonable and safe and
22 would prevent dangerous conditions such as the one in this case;
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1 y. Failing to comply with applicable industry and other standards, statutes, and/or
2 regulations the violation of which negligence per se and/or evidence of
3 negligence and/or; and

4 z. Failing to comply with applicable industry standards, statutes, and/or regulations
5 which invokes the Pennsylvania Rule and shifts the burden of proof to the
6 Defendant in the proof of negligence or proof of the absence of negligence.

7 44. Holland America by its negligent procedures and operations proximately caused
8 and allowed this attack and the injuries and damages suffered by the Plaintiff. The injuries and
9 damages suffered by the Plaintiff as a result of the negligence of the Defendants include but are
10 not limited to economic damages in the past and in the future on a permanent basis including
11 but not limited to expenses for medical and psychological care and treatment, household and
12 other expenses, past lost income, and future loss of the ability or capacity to earn income; and
13 non-economic damages in the past and in the future on a permanent basis including bodily
14 injury, pain, suffering, mental anguish, loss of the enjoyment of life, physical impairment and
15 disability, inconvenience, scarring, and disfigurement, all of which in the past and in the future.

16
17 WHEREFORE, the Plaintiff demands judgment against HOLLAND AMERICA for all
18 damages to which she is entitled under the General Maritime Law and otherwise including but
19 not limited to economic damages suffered in the past and in the future on a permanent basis by
20 the Plaintiff including but not limited to expenses for medical and psychological care and
21 treatment, household and other expenses, loss of income, and loss of the ability and capacity to
22 earn income in the future; non-economic damages including but not limited to bodily injury,
23 pain, suffering, mental anguish, loss of the enjoyment of life, physical impairment, disability,
24 inconvenience, scarring, and disfigurement; punitive damages, all court costs; all interest

1 which accrues from the date of the incident on all economic and non-economic damages under
2 the General Maritime Law; and any and all other damages which the Court deems just and
3 proper.

4 **COUNT III**
5 **DIRECT LIABILITY OF HOLLAND AMERICA:**
6 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

7 45. The Plaintiff, JANE DOE, hereby adopts and realleges each and every allegation
8 in paragraphs 1 through 34, above.

9 46. This is an action for negligent infliction of emotional distress. HOLLAND
10 AMERICA engaged in negligent conduct. The Defendants had a duty to provide for the safety
11 of its passengers and to avoid the infliction of emotional distress of its passengers, including
12 and especially in the passengers' own assigned cabins. HOLLAND AMERICA breached its
13 duties and acted unreasonably under the circumstances by its actions and conduct including but
14 not limited to the following:

- 15 a. Failing to make, create, and maintain a safe environment for passengers in their
16 own cabins, including the Plaintiff herein;
- 17 b. Failing to fulfill their representations made in their literature, website, online, and
18 otherwise about the safety and security of passengers onboard;
- 19 c. Failing to prevent its crewmembers from committing crimes or violent acts to
20 passengers onboard;
- 21 d. Failing sufficiently to monitor passenger activity and excessive noise and human
22 screaming which would indicate an emergency and a cry for help;
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- e. Failing sufficiently to monitor and supervise the conduct, activities, and whereabouts of its crew onboard its own cruise ship especially crew such as the perpetrator of this event who had access to passenger cabins;
- f. Failing to provide sufficient security personnel to be able to adequately monitor the activities of people and the physical plant of the ship and to respond to emergencies timely and adequately so as to prevent injuries to personnel onboard including passengers such as the Plaintiff;
- g. Failing to establish adequate procedures for passengers to contact security in case of a security problem;
- h. Failing to respond timely to complaints of attacks or altercations within a cabin;
- i. Failing to implement reasonable and proper procedures for the safety and security of the passengers onboard the ship including the safety of female passengers;
- j. Failing to warn female passengers that the ship is not a safe place, that there are predators among Holland America's crew, and that the security systems and personnel onboard ship were not adequate to protect passengers from crewmembers attacking passengers in their cabins;
- k. Failing to have video surveillance in passenger hallways, baloneys, and other areas to allow the vessel to monitor the activities of its passengers and crew and to deter crew from committing crimes and violent acts onboard;
- l. Failing to otherwise monitor or keep track of crewmembers especially those crew who have access to passenger cabins and areas and the keys to those cabins;
- m. Failing to prevent crew from engaging in assaults, batteries, sexual assaults and batteries, and rape onboard the subject vessel;

- 1 n. Failing to recruit crew from countries where proper and reliable background
2 checks into criminal, vocational, and mental health histories can be obtained;
- 3 o. Failing to reasonably and properly screen crew members who would have card key
4 access to passenger cabins;
- 5 p. Failing to provide sufficient rules, regulations, policies, and/or procedures for
6 Holland America employees regarding interaction with passengers and regarding
7 access to passenger cabins and keys to passengers cabins;
- 8 q. Failing to reasonably and properly enforce rules, regulations, policies and
9 procedures for Holland America employees regarding interaction with passengers
10 and regarding access to passenger cabins and keys to passengers cabins;
- 11 r. Failing to implement reasonable and proper methods of preventing crime by
12 Holland America employees;
- 13 s. Failing to comply with applicable industry and other standards, statutes, and/or
14 regulations the violation of which negligence per se and/or evidence of
15 negligence;
- 16 t. Failing to restrict card key and passenger cabin access only to essential
17 personnel onboard the ship, only to personnel during the times when the
18 personnel need to be in the passengers' cabins for the legitimate purpose of their
19 job, only to personnel when onboard security is able to monitor those personnel,
20 only to personnel who are trustworthy, only to personnel whose criminal,
21 vocational, and mental health backgrounds have been reasonably investigated
22 and verified, and only to personnel who have been appropriately tested;
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- 1 u. Failing to implement reasonable and proper procedures for the safety and security
2 of the passengers onboard the ship;
- 3 v. Failing to have reasonable and proper methods of preventing crime to be
4 committed by crewmembers entering passenger cabins;
- 5 w. Failing to implement reasonable and adequate security policies, security measures,
6 and security procedures necessary to protect minor passengers on the subject ship;
- 7 x. Failing to take additional security measures after being put on notice that the
8 security measures in force are inadequate;
- 9 y. Failing to reasonably and adequately provide an overall security plan which would
10 meet industry standards and customs for safety onboard the subject ship;
- 11 z. Failing to implement a method of operation which was reasonable and safe and
12 would prevent dangerous conditions such as the one in this case;
- 13 aa. Failing to provide security commensurate with the type of business conducted
14 therein, namely an isolated party ship where passengers have a reasonable and
15 justifiable expectation of feeling safe in their own cabin, approaching their own
16 cabin, and elsewhere on the ship;
- 17 bb. Failing to comply with applicable industry and other standards, statutes, and/or
18 regulations the violation of which negligence per se and/or evidence of
19 negligence and/or; and
- 20 cc. Failing to comply with applicable industry standards, statutes, and/or regulations
21 which invokes the Pennsylvania Rule and shifts the burden of proof to the
22 Defendant in the proof of negligence or proof of the absence of negligence.
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1 47. The breaches of duties of HOLLAND AMERICA allowed and proximately
2 caused the incident to occur and therefore caused the Plaintiff to suffer injuries and damages.
3 Those injuries and damages suffered by the Plaintiff are supported by objective
4 symptomatology and are subject to medical diagnosis and/or diagnosis of an emotional
5 disorder. The Plaintiff in this case has suffered and will continue to suffer from blunt force
6 trauma to the head, lacerations and bruising to the head and other parts of her body, skull
7 fracture, spine fracture, other orthopedic injuries, PTSD, and traumatic brain injury.

8 48. As a result of the negligent infliction of emotional distress, the Plaintiff, JANE
9 DOE, has suffered damages and injuries including but not limited to economic damages in the
10 past and in the future on a permanent basis including but not limited to expenses for medical
11 and psychological care and treatment, household and other expenses, past lost income, and
12 future loss of the ability or capacity to earn income; and non-economic damages in the past and
13 in the future on a permanent basis including bodily injury, pain, suffering, mental anguish, loss
14 of the enjoyment of life, physical impairment and disability, inconvenience, scarring, and
15 disfigurement, all of which in the past and in the future.

16 WHEREFORE, the Plaintiff demands judgment against HOLLAND AMERICA for all
17 damages to which she is entitled under the General Maritime Law and otherwise including but
18 not limited to economic damages suffered in the past and in the future on a permanent basis by
19 the Plaintiff including but not limited to expenses for medical and psychological care and
20 treatment, household and other expenses, loss of income, and loss of the ability and capacity to
21 earn income in the future; non-economic damages including but not limited to bodily injury,
22 pain, suffering, mental anguish, loss of the enjoyment of life, physical impairment, disability,
23 inconvenience, scarring, and disfigurement; punitive damages, all court costs; all interest

1 which accrues from the date of the incident on all economic and non-economic damages under
2 the General Maritime Law; and any and all other damages which the Court deems just and
3 proper.

4 **COUNT IV**
5 **VICARIOUS LIABILITY OF HOLLAND AMERICA:**
6 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS OF PASSENGER BY**
7 **CREWMEMBER**

8 49. The Plaintiff, JANE DOE, hereby adopts and realleges each and every allegation
9 in paragraphs 1 through 34, above.

10 50. This is an action for intentional infliction of emotional distress of a passenger by
11 a crewmember. The conduct of the perpetrator here was extreme and outrageous. The
12 perpetrator intended to inflict emotional distress or was reckless in his actions. The intentional
13 or reckless actions of the perpetrator in fact did inflict on the Plaintiff extreme emotional
14 distress.

15 51. The actions of the HOLLAND AMERICA crew and/or employee Pujayasa were
16 unlawful and in violation of criminal statutes including 18 U.S.C. Sec. 1113 (attempted
17 murder) and 18 U.S.C. Sec. 2241 (a)(1) (aggravated sexual abuse) to which Pujayasa has pled
18 guilty in the District Court for the Southern District of Florida in the action styled *United States*
19 *of America v. Pujayasa*, S.D. Fla. Case No. 14-60047-CR-JEM.

20 52. HOLLAND AMERICA is liable and responsible for the intentional infliction of
21 emotional distress of the perpetrator under *respondeat superior* and under the strict liability of
22 the cruise line for the criminal, wrongful, and/or violent actions of its onboard crew.

23 53. As a result of the intentional infliction of emotional distress, the Plaintiff, JANE
24 DOE, has suffered damages and injuries including but not limited to economic damages in the

1 the movement of the Plaintiff during the violent attack and would not allow her to leave the
2 cabin during that time.

3 56. The actions of the HOLLAND AMERICA crew and/or employee Pujayasa in
4 restricting the movement of the Plaintiff during and in the course of this brutal attack were
5 unlawful and/or were criminal.

6 57. HOLLAND AMERICA is vicariously liable and responsible for the intentional
7 infliction of emotional distress of the perpetrator under respondeat superior and under the strict
8 liability of the cruise line for the criminal, wrongful, and/or violent actions of its onboard crew.
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10 58. As a result of the false imprisonment of the Plaintiff, JANE DOE, has suffered
11 damages and injuries including but not limited to economic damages in the past and in the
12 future on a permanent basis including but not limited to expenses for medical and
13 psychological care and treatment, household and other expenses, past lost income, and future
14 loss of the ability or capacity to earn income; and non-economic damages in the past and in the
15 future on a permanent basis including bodily injury, pain, suffering, mental anguish, loss of the
16 enjoyment of life, physical impairment and disability, inconvenience, scarring, and
17 disfigurement, all of which in the past and in the future.

18 WHEREFORE, the Plaintiff demands judgment against HOLLAND AMERICA for all
19 damages to which she is entitled under the General Maritime Law and otherwise including but
20 not limited to economic damages suffered in the past and in the future on a permanent basis by
21 the Plaintiff including but not limited to expenses for medical and psychological care and
22 treatment, household and other expenses, loss of income, and loss of the ability and capacity to
23 earn income in the future; non-economic damages including but not limited to bodily injury,
24 pain, suffering, mental anguish, loss of the enjoyment of life, physical impairment, disability,
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1 inconvenience, scarring, and disfigurement; punitive damages, all court costs; all interest
2 which accrues from the date of the incident on all economic and non-economic damages under
3 the General Maritime Law; and any and all other damages which the Court deems just and
4 proper.

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6 **COUNT VI**
7 **VICARIOUS LIABILITY OF HOLLAND AMERICA:**
8 **ASSAULT, BATTERY, SEXUAL ASSAULT AND BATTERY OF PASSENGER BY**
9 **CREWMEMBER**

10 59. The Plaintiff, JANE DOE, hereby adopts and realleges each and every allegation
11 in paragraphs 1 through 34, above.

12 60. This is an action for assault, battery, sexual assault and battery, rape, and
13 attempted murder of a passenger by a crewmember. Holland America's employee and/or crew
14 committed the intentional acts of assault, battery, sexual assault, sexual battery, attempted
15 murder, and rape on the Plaintiff.

16 61. The actions of the HOLLAND AMERICA crew and/or employee Pujayasa were
17 unlawful and in violation of criminal statutes including 18 U.S.C. Sec. 1113 (attempted
18 murder) and 18 U.S.C. Sec. 2241 (a)(1) (aggravated sexual abuse) to which Pujayasa has pled
19 guilty in the District Court for the Southern District of Florida in the action styled *United States*
20 *of America v. Pujayasa*, S.D. Fla. Case No. 14-60047-CR-JEM. These actions also constitute
21 assault in the first, second, third, and/or fourth degrees under Washington state law in violation
22 of RCW 9A.36.011, RCW 9A.36.011, 9A.36.031, and/or 9A.36.041; reckless endangerment in
23 violation of RCW 9A.36.050; rape in the first, second, and/or third degrees in violation of
24 RCW 9A.44.040, RCW 9A.44.050, and/or RCW 9A.44.060; and indecent liberties in violation
25 of RCW 9A.44.100.

1 62. The crew conduct was willful, wanton, outrageous, and in reckless disregard and
2 indifference for the rights of others and for the safety and security of its passengers including
3 the Plaintiff herein are a basis for punitive damages against Holland America under the
4 Restatement (Second) of Torts 909 and under the General Maritime Law.

5 63. HOLLAND AMERICA is vicariously liable and responsible for the criminal
6 acts of its crewmember and/or employee under respondeat superior and under the strict liability
7 of the cruise line for the criminal, wrongful, and violent actions of its onboard crew.

8 64. The criminal conduct of the HOLLAND AMERICA crew and/or employee
9 committed onboard ship and in the course and scope of their employment and attributable to
10 Holland America have caused the Plaintiff to suffer damages, economic and non economic, past
11 and future, for bodily injury, emotional distress, mental anguish, pain and suffering, loss of
12 capacity for the enjoyment of life, medical and psychological treatment expenses, and the loss
13 of the ability of the Plaintiff to earn money in the future. The losses are either permanent or
14 continuing. The Plaintiff has suffered these losses in the past and will continue to suffer them
15 in the future.

16 65. As a result of the subject assault, battery, sexual assault and battery, the
17 Plaintiff, JANE DOE, has suffered damages and injuries including but not limited to economic
18 damages in the past and in the future on a permanent basis including but not limited to
19 expenses for medical and psychological care and treatment, household and other expenses, past
20 lost income, and future loss of the ability or capacity to earn income; and non-economic
21 damages in the past and in the future on a permanent basis including bodily injury, pain,
22 suffering, mental anguish, loss of the enjoyment of life, physical impairment and disability,
23 inconvenience, scarring, and disfigurement, all of which in the past and in the future.

1 70. Under the General Maritime Law, HOLLAND AMERICA had the absolute
2 non-delegable duty to provide Plaintiff with a seaworthy vessel.

3 71. On or about the previously stated date the unseaworthiness of Defendant's
4 vessel was a legal cause of injury and damage to Plaintiff by reason of the following:

- 5 a. The vessel was unsafe and unfit due to the conditions created by Defendant's
6 conduct stated above;
- 7 b. The vessel was not reasonably fit for its intended purpose;
- 8 c. The vessel's crew was not properly trained, instructed or supervised;
- 9 d. The vessel did not have a fit crew;
- 10 e. The vessel did not have adequate manpower for the task being performed;
- 11 f. The perpetrator was a fellow crewmember and engaged in a savage and
12 unprovoked attack on the Plaintiff (thus making HOLLAND AMERICA
13 responsible and liable as a matter of law for the unseaworthiness of the
14 vessel);
- 15 g. Failing of HOLLAND AMERICA to use reasonable care to provide and
16 maintain a safe place to work for Plaintiff, fit with proper and adequate
17 machinery, crew and equipment;
- 18 h. Failing to use reasonable care to provide Plaintiff a safe place to work;
- 19 i. Failing to adequately warn of dangers in the workplace;
- 20 j. Failing to provide adequate training;
- 21 k. Failing to hire sufficient security personnel;
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- 1 l. Failing to promulgate and enforce reasonable rules and regulations to insure
2 the safety and health of the employees and more particularly the Plaintiff,
3 while engages in the course of her employment on said vessel;
- 4 m. Failing to ascertain the cause of prior similar incidents so as to take measures
5 to prevent its re-occurrence, and more particularly the incident described
6 herein;
- 7 n. Failing to follow sound management practices with the goal of providing
8 Plaintiff a safe place to work;
- 9 o. Failing to investigate the hazards and assess risks to Plaintiff and then take
10 the necessary steps to eliminate or minimize the hazards, or risks and/or
11 warn Plaintiff of the dangers from the hazards and/or risks;
- 12 p. Failing to implement a method of operation which was reasonable and safe
13 and would prevent dangerous conditions such as the one in this case.
- 14 q. Failing to comply with applicable standards, statutes, and/or regulations the
15 violation of which is negligence per se and/or evidence of negligence.
- 16 r. Failing to comply with applicable industry standards, statutes, and/or
17 regulations which invokes the Pennsylvania Rule and shifts the burden of
18 proof to the Defendant in the proof of negligence or proof of the absence of
19 negligence; and/or
- 20 s. Failing to comply with applicable industry standards, statutes, and/or
21 regulations which under the Federal Employer's Liability Act (FELA), 45
22 U.S.C. Sec. 53 as incorporated into the Jones Act, 46 U.S.C. Sec. 688 et.
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1 Seq., prohibits any reduction of the Plaintiff's recovery for the comparative
2 negligence, if any, of the Plaintiff.

3 72. The unseaworthiness of the subject vessel, that is the savage, unprovoked attack
4 of the perpetrator who at the time was an employee of the Defendants constituted subject
5 assault, battery, sexual assault and battery. This attack has caused the Plaintiff to suffer injuries
6 and damages including but not limited to economic damages in the past and in the future on a
7 permanent basis including but not limited to expenses for medical and psychological care and
8 treatment, household and other expenses, past lost income, and future loss of the ability or
9 capacity to earn income; and non-economic damages in the past and in the future on a
10 permanent basis including bodily injury, pain, suffering, mental anguish, loss of the enjoyment
11 of life, physical impairment and disability, inconvenience, scarring, and disfigurement, all of
12 which in the past and in the future.

14 WHEREFORE, the Plaintiff demands judgment against HOLLAND AMERICA for all
15 damages to which she is entitled under the General Maritime Law and otherwise including but
16 not limited to economic damages suffered in the past and in the future on a permanent basis by
17 the Plaintiff including but not limited to expenses for medical and psychological care and
18 treatment, household and other expenses, loss of income, and loss of the ability and capacity to
19 earn income in the future; non-economic damages including but not limited to bodily injury,
20 pain, suffering, mental anguish, loss of the enjoyment of life, physical impairment, disability,
21 inconvenience, scarring, and disfigurement; punitive damages, all court costs; all interest
22 which accrues from the date of the incident on all economic and non-economic damages under
23 the General Maritime Law; and any and all other damages which the Court deems just and
24 proper.

COUNT VIII
JONES ACT NEGLIGENCE

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3 73. The Plaintiff hereby adopts and re-alleges each and every allegation in
4 Paragraphs 1 through 34 above.

5 74. This is an action for Jones Act Negligence against the Defendants.

6 75. As an alternative to the allegations above that the Plaintiff was a passenger
7 onboard the subject vessel, at all times material hereto, the Plaintiff was a Jones Act seaman
8 and employee of HOLLAND AMERICA. The vessel at all times material hereto was in
9 navigable waters.

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11 76. It was the duty of the Defendants to provide Plaintiff with a safe place to work
12 and not to allow or to act unreasonably so as to create a dangerous or harmful work
13 environment.

14 77. On or about the above date, Plaintiff was injured due to the fault and negligence
15 of HOLLAND AMERICA and/or its agents, servants, and/or employees as follows:

- 16 a. Failing to provide a crew which was not violent and would not attack fellow
17 crew and others onboard such as the Plaintiff herein;
- 18 b. Failing to use reasonable care to provide Plaintiff a safe place to work;
- 19 c. Failing to adequately warn of dangers in the workplace;
- 20 d. Failing to hire crew only from countries with infrastructure which ensures in
21 depth and accurate criminal, vocational, mental health, and other background
22 checks and investigation;
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- 1 e. Failing to screen reasonably and accurately people applying for a crew position
2 or crewmembers after they are hired for criminal, vocational, mental health,
3 and other background information through reasonable and proper investigation
4 and testing;
- 5 f. Failing to supervise and monitor the activities of crewmembers onboard its
6 ships especially crewmembers who have access to crewmember room keys,
7 with personnel, electronic means, appropriate rules and procedures, and/or
8 proper enforcement of rules and procedures;
- 9 g. Failing to train and counsel its crewmembers and their supervisors all during
10 the employment to follow rules and procedures, to stay out of and away from
11 fellow crewmember cabins, to respect female crewmembers, to control anger
12 and anxiety, to remain calm, to report crew or passenger misconduct or other
13 issues, and to refrain from assaults, batteries, and sexual assaults and batteries;
- 14 h. Failing to retain crewmembers reasonably under these circumstances by
15 evaluating crew reasonably, timely, and in sufficient depth and by taking action
16 on the evaluations of currently employed crewmembers for problems, rule and
17 procedure violations, anger or anxiety control issues, reactions to crew and
18 passenger conduct, and tendencies toward assaults and batteries;
- 19 i. Failing otherwise to fulfill representations made by HOLLAND AMERICA on
20 its website, online, in their literature, and otherwise about the safety and
21 security of crewmembers in their own cabins;
- 22 j. Failing otherwise to make, create, and maintain a safe environment for
23 crewmembers in their own cabins, including the Plaintiff herein;
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- 1 k. Failing to prevent its crewmembers from committing crimes or violent acts to
2 crewmembers onboard;
- 3 l. Failing sufficiently to monitor passenger activity and excessive noise and
4 human screaming which would indicate an emergency and a cry for help;
- 5 m. Failing sufficiently to monitor and supervise the conduct, activities, and
6 whereabouts of its crew onboard its own cruise ship especially crew such as the
7 perpetrator of this event who had access to passenger cabins;
- 8 n. Failing to provide sufficient security personnel to be able to adequately monitor
9 the activities of people and the physical plant of the ship and to respond to
10 emergencies timely and adequately so as to prevent injuries to personnel
11 onboard including crewmembers such as the Plaintiff;
- 12 o. Failing to establish adequate procedures for passengers and crewmembers to
13 contact security in case of a security problem;
- 14 p. Failing to respond timely to complaints of attacks or altercations within a
15 cabin;
- 16 q. Failing to implement reasonable and proper procedures for the safety and
17 security of the passengers onboard the ship including the safety of female
18 passengers;
- 19 r. Failing to warn female crewmembers that the ship is not a safe place, that there
20 are predators among Holland America's crew, and that the security systems
21 and personnel onboard ship were not adequate to protect female crewmembers
22 from crewmembers attacking crewmembers in their cabins;
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- 1 s. Failing to have video surveillance in crewmember hallways, balconies, and
2 other areas to allow the vessel to monitor the activities of its passengers and
3 crew and to deter crew from committing crimes and violent acts onboard;
- 4 t. Failing to otherwise monitor or keep track of crewmembers especially those
5 crew who have access to crewmember cabins and areas and the keys to those
6 cabins;
- 7 u. Failing to prevent crew from engaging in assaults, batteries, sexual assaults and
8 batteries, and rape onboard the subject vessel;
- 9 v. Failing to recruit crew from countries where proper and reliable background
10 checks into criminal, vocational, and mental health histories can be obtained;
- 11 w. Failing to reasonably and properly screen crew members who would have card
12 key access to crewmember cabins;
- 13 x. Failing to provide sufficient rules, regulations, policies, and/or procedures for
14 Holland America employees regarding interaction with crewmembers and
15 regarding access to crewmember cabins and keys to crewmember cabins;
- 16 y. Failing to reasonably and properly enforce rules, regulations, policies and
17 procedures for Holland America employees regarding interaction with
18 crewmembers and regarding access to passenger cabins and keys to passengers
19 cabins;
- 20 z. Failing to implement reasonable and proper methods of preventing crime by
21 Holland America employees;
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- 1 aa. Failing to implement reasonable and proper procedures for the safety and
2 security of the crewmembers onboard the ship including but not limited to
3 security policies and procedures commensurate with the type of business
4 conducted therein, namely an isolated party ship where crewmembers have a
5 reasonable and justifiable expectation of feeling safe in their own cabin,
6 approaching their own cabin, and elsewhere on the ship;
- 7 bb. Failing to have reasonable and proper methods of preventing crime to be
8 committed by crewmembers entering crewmember cabins;
- 9 cc. Failing to take additional security measures after being put on notice that the
10 security measures in force are inadequate;
- 11 dd. Failing to promulgate and enforce reasonable rules and regulations to insure
12 the safety and health of the employees and more particularly the Plaintiff,
13 while engages in the course of his employment on said vessel;
- 14 ee. Failing to ascertain the cause of prior similar incidents so as to take measures
15 to prevent its re-occurrence, and more particularly this incident;
- 16 ff. Failing to investigate the hazards and assess risks to Plaintiff and then take
17 the necessary steps to eliminate or minimize the hazards and risks and/or
18 warn Plaintiff of the dangers from the hazards and risks;
- 19 gg. Failing to implement a method of operation which was reasonable and safe
20 and would prevent dangerous conditions such as the one in this case;
- 21 hh. Failing to comply with applicable industry standards, statutes, and/or
22 regulations, which constitutes negligence per se and/or is evidence of
23 negligence;
24 negligence;
25

1 ii. Failing to comply with applicable industry standards, statutes, and/or
2 regulations which invokes the Pennsylvania Rule and shifts the burden of
3 proof to the Defendants in the proof of negligence or proof of the absence of
4 negligence; and/or

5 jj. Failing to comply with applicable industry standards, statutes, and/or
6 regulations which under the Federal Employer's Liability Act (FELA), 45
7 U.S.C. Sec. 53 as incorporated into the Jones Act, 46 U.S.C. Sec. 688 et.
8 Seq., which prohibits any reduction of the Plaintiff's recovery for the
9 comparative negligence, if any, of the Plaintiff.
10

11 78. Defendants knew of the foregoing conditions causing Plaintiff's condition
12 and/or accident and did not correct them, or the conditions existed for a sufficient length of
13 time so that Defendants in the exercise of reasonable care should have learned of them and
14 corrected them.

15 79. As a result of the negligence of the Defendant, the Plaintiff, JANE DOE, has
16 suffered damages and injuries including but not limited to economic damages in the past and in
17 the future on a permanent basis including but not limited to expenses for medical and
18 psychological care and treatment, household and other expenses, past lost income, and future
19 loss of the ability or capacity to earn income; and non-economic damages in the past and in the
20 future on a permanent basis including bodily injury, pain, suffering, mental anguish, loss of the
21 enjoyment of life, physical impairment and disability, inconvenience, scarring, and
22 disfigurement, all of which in the past and in the future.
23

24 WHEREFORE, the Plaintiff demands judgment against HOLLAND AMERICA for all
25 damages to which she is entitled under the General Maritime Law and otherwise including but
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1 not limited to economic damages suffered in the past and in the future on a permanent basis by
2 the Plaintiff including but not limited to expenses for medical and psychological care and
3 treatment, household and other expenses, loss of income, and loss of the ability and capacity to
4 earn income in the future; non-economic damages including but not limited to bodily injury,
5 pain, suffering, mental anguish, loss of the enjoyment of life, physical impairment, disability,
6 inconvenience, scarring, and disfigurement; punitive damages, all court costs; all interest
7 which accrues from the date of the incident on all economic and non-economic damages under
8 the General Maritime Law; and any and all other damages which the Court deems just and
9 proper.
10

11 **DEMAND FOR JURY TRIAL**

12 The Plaintiff hereby demands trial by jury of all claims so triable.

13 */s/ Charles P. Moure*

14 **LOCAL COUNSEL**

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23 Who will seek admission to U.S. Western District of
24 Washington

Attorneys for the Plaintiff