

DEAR READERS: Do you have a legal question that has been burning on your mind (but are hesitant to ask an attorney...cha-ching; cha-ching)? If so, please send your questions to Debra A. Newby via email (contact information below). Your name will remain confidential. Although every inquiry may not be published, we will publish as many as possible. Finally, this Q & A Legal Column is intended as a community service to discuss general legal principles and does not create an attorney-client relationship.

Q: My wife was treated for a cat bite and prescribed antibiotics. Shortly afterward, we embarked on a Caribbean cruise, where the symptoms reoccurred. The ship's doctor gave her the wrong medicine, the condition worsened (she was bed-bound most of the cruise) and we incurred about \$3100 in medical bills on the cruise. Upon our return, she was hospitalized and treated her with the correct antibiotics for another 4 weeks, which resulted in further medical complications. What are our rights against the cruise line?

Signed: Seriously Seasick

A: Dear Seriously Seasick: Wow! Not exactly your honeymoon cruise to the Caribbean, eh? So sorry your memory book is not glazed with happy and relaxing snapshots.

Your question provokes undertones of medical malpractice (which in essence is negligence/tort law), maritime or admiralty law, and possibly contract law. What a tangled web you have woven.

Generally, if you are injured "at sea", the primary remedy is through the federal courts, as maritime law governs injuries in the international waters. The rights and remedies afforded to an "employee" or "deckhand" of the ship may differ from the rights afforded to a "passenger" or "business visitor".

First, you must establish you are a legitimate passenger. Easy enough for to do—you need only prove existence of a contract (either written or oral) and the payment of a fare. The relationship between passenger and carrier takes place when the traveler has paid the fare and boarded the vessel. Undoubtedly, you and your wife passed that hurdle—the cruise line established certain terms or condition of contract, you paid moola for the cruise, and eventually boarded the ship.

Once you establish your status as a passenger, the issue then morphs into whether the cruise line is legally liable for the actions (or non-actions) of the ship's doctor. My general research reveals a few surprising concepts:

- 1) There is no requirement under general maritime law or statute for a cruise line to carry a doctor. Most cruise lines may have a ship doctor, but it is primarily for the convenience of the passengers, not the ship;
- 2) Generally, cruise lines are not liable for the negligence of the ship doctor because the carrier/ship has no control over the doctor/patient relationship. The nature of the relationship is outside the business, if you will, of the ship's owner.

3) The cruise line may be held liable if they negligently **hire** a ship doctor, but typically, they are not liable for general acts of negligence.

4) Certain time limitations do apply if you do file a claim against the cruise line. Generally, admiralty suits must be filed within one year of the injury (with an additional requirement of putting the carrier on notice within 6 months of the injury).

You may wish to consult with an attorney who emphasize maritime or admiralty law. Check your paperwork from the cruise—some cruise lines itemize in the “terms” that claims be adjudicated in Florida—so you may wish to “goggle” maritime attorneys in Florida—many will offer an initial complimentary consultation.

For your next cruise, I would offer the following practical tips for you, and any of our globetrotting readers:

- Before embarking on a cruise (or other travels abroad), check with your own health insurance carrier and confirm whether 1) health coverage is extended within international waters or abroad; and 2) whether any medical bills incurred during the trip are reimbursable.
- Always investigate “travel insurance”, which will help offset medical bills incurred. Trip insurance is also helpful, in case the trip needs to be cancelled or interrupted.

Hope your wife’s condition is improving. Maybe you can watch “Love Boat” reruns and relive the intended joyful experience from the shores of the Russian River, with wine glass in hand! Good luck!

Debra A. Newby is a resident of Monte Rio and has practiced law for 27 years. She is a member of the California, Texas and Sonoma County Bar Associations and currently maintains an active law office in Santa Rosa. Her law practice emphasizes personal injury law (bicycle/motorcycle/motor vehicle accidents, dog bites, trip and falls, etc.) and expungements (clearing criminal records). Debra can be reached via email (debra@newbylawoffice.com), phone (707-526-7200), fax (526-7202) or pony express (930 Mendocino Avenue, Suite 101; Santa Rosa, 95401).