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Are Cruise Ships Liable if Something Goes Wrong During an Excursion?

By Brett Rivkind | UPDATED Jan 30, 2018 at 11:53 AM

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Brett Rivkind.

Passengers of cruise ships injured or killed during shore excursions: Is the cruise ship company liable if something goes wrong during the excursion they promote and sell to the passenger?

One of the major attractions that cruise ship companies offer to their passengers are excursions. They market them, suggest you purchase your tickets directly from them for safety reasons, and sell the excursions both before the cruise begins and on board the ship. Passengers can find these exciting and exotic excursions on the websites of the major cruise ship companies, where it is recommended that they

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purchase directly from them. A clear message is sent that a passenger is at less risk by purchasing directly from the cruise ship company as the excursion companies have been previously vetted, including its safety.

Recently, passengers from a Royal Caribbean and Celebrity cruise ship were injured and killed in a bus accident when the passengers were being transported to a tour of the Mayan ruins in Mexico. This tragedy caused the death of 12 passengers and injuries to many others. Eight Americans were killed in the crash, including an 11-year-old boy.

The legal question is: what is the liability of the cruise ship company that promoted and sold the excursion for this accident, or any other type accident during an excursion sold by the cruise ship company? There are difficult legal barriers to recovery that a passenger will face. The most difficult barrier is the cruise ship company, despite promoting and selling the tour and the appearance that the excursion companies are agents of the cruise ship company, will attempt to avoid any legal liability to the passengers by asserting that the excursion companies involved are independent contractors for which they have no legal liability for their actions. In fact, the passenger ticket issued to passengers, which is essentially a contract of several pages in fine print of legal terms and conditions, asserts that these companies are in fact independent contractors under the law.

Despite the characterization by the cruise ship companies that the excursion companies are independent contractors, the facts and circumstances can be used to prove otherwise and hold the cruise ship company accountable under maritime law. There are several theories of liability to hold the cruise ship company liable for an accident involving an excursion, including arguing that the excursion company is acting as an agent for the cruise ship company contrary to assertions by the cruise ship company, as well as an argument that even if under the law the excursion companies are not considered an agent, they will be held as such under a theory of apparent agency because the cruise ship company has created the appearance of an agency relationship in an effort to sell these tickets and profit from them.

Another theory is if the facts and circumstances reveal a dangerous condition that contributed to the accident that was known or reasonably should have been known to the cruise ship company, the cruise ship company may have had a duty to warn the passengers and/or not hired or retained the particular excursion company. For example, a poor safety record of the transportation company would be evidence of negligence on the part of the cruise ship company for failure to properly investigate the company prior to promoting and selling the passengers the excursion.

This is a difficult area under the maritime law dealing with cruise ship liability for passenger injuries and deaths. Cruise ship passengers also face the contractual shortened statute of limitations date for filing a lawsuit against the cruise ship company, which is one year from the date of the incident. There are also notice requirements in the passenger ticket that must be complied with.

The bottom line is a cruise ship company can be liable for injuries or death during an excursion off the ship depending on the facts and circumstances, and the particular maritime legal theories pursued by the attorney.

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Brett Rivkind, a partner with Rivkind & Margulies in Miami, has been handling maritime claims, including those occurring during shore excursions, for more than 33 years.

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