

PRESIDENTS DAY WEEKEND  
**FEBRUARY 16-20, 2017**  
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# Screwed If By Sea

BY FORREST NORMAN

THURSDAY, NOVEMBER 11, 2004 AT 4 A.M.



**Doran McDonald reached Miami International Airport at dawn, limping and hopping to a pay phone after his third flight in 24 hours.** His right leg had been boiled, and the odor of decay oozed from his burned flesh. The top of his foot was a grapefruit-size blister, the stretched skin tight and shiny. McDonald hadn't been able to elevate his leg at all on the flights from Alaska to Vancouver, or from Vancouver to Los Angeles, or from L.A. to Miami. The swelling and pressure were excruciating and he was close to passing out from the pain. He was afraid the next two segments of his trip (Miami to Antigua, Antigua to St. Vincent) would be unbearable. Adding to his discomfort was the thought of arriving in his native St. Vincent: His family lived two hours from the airport and didn't have a car; he had no idea how he'd get home. McDonald would arrive on the island on a Sunday morning. No doctor would see him for at least another day.

McDonald, a small, soft-spoken 29-year-old, did what any man facing such obstacles would do: He called his mother.

Pearlie Hector was angry. She thought her son should never have boarded an airplane, that he should still be in the Juneau, Alaska, hospital where he had received preliminary medical care the day before. Most of all, she thought Doran was being mistreated by Royal Caribbean International, the cruise line he was working for when he was burned. Hector told her son to call Miami lawyer James Walker, who had represented another family member in a case against a cruise line years before, and she told him to go to a hospital in Miami.

McDonald's decision to stay and retain a lawyer resulted in his receiving a quality of medical care he wouldn't have had access to on St. Vincent, but it also prompted Royal Caribbean to set in motion the federal government's immigration policy machinery. Within a month McDonald would be languishing at Krome Detention Center.

The massive ocean liners that steam out of the Port of Miami almost every weekend look like whole city blocks torn free and headed for the Caribbean. Happy passengers, unmoored from daily responsibility for a weekend or more, lean against the rails beatifically smiling and waving to MacArthur Causeway motorists. It is a long way from the upper decks of a cruise ship to sea level, and no one knows that better than the workers who inhabit the lower stations of such a vessel.

Passages honeycomb the great ships' interiors, opening onto cavernous ballrooms and opulent luxury suites. Endless hallways of cabins each morning disgorge tourists who scurry to sprawling, dining rooms or outdoor bars next to bright-blue pools that shimmer in the sun like clear, antiseptic simulacra of the murkier ocean below. Deep in the bowels of a cruise liner are the smaller rooms with bunk beds where the workers live. Employees tend the engine, cook the food, and clean the pools. If they're lucky, they tend bar or wait tables. Others clean rooms and fluff pillows.

Some, like Doran McDonald, wake up in the middle of the night to make use of the only lull in the never-ending demand for food onboard a luxury liner. They file into the galleys and wipe every surface from counters to walls, cleaning the daily residue of bacon grease and chicken fat, sweeping up stray sprigs of parsley and shreds of lettuce from hastily thrown together salads.

McDonald, like many cruise line employees, is from a poor country. The big ships provide an inviting economic opportunity for men and women from Third World nations in Eastern Europe, the South Pacific, and the Caribbean.

The sailor had something else in common with his fellow galley workers when he rolled out of his bunk around midnight on May 20, 2002, pulled on rubber boots, and trudged into the kitchen to start cleaning: a desire to move up to a higher-paying job in the dining room. "When I work for Premier I am a waiter, and the money then was very good," McDonald says. "But when I go to Royal Caribbean, I start over again at the bottom."

McDonald was no stranger to shipboard living -- even for \$500 a month, doing janitorial duty onboard a cruise ship was more remunerative than harvesting bananas in St. Vincent. McDonald had gone to work for Premier Cruise Line in 1998, and advanced from galley worker to waiter, a job in which he made more than \$1000 a month and sent much of it home. But in 2000 Premier went bankrupt. McDonald started over at Royal Caribbean in 2002.

May 20 was only McDonald's second night onboard the *Legend of the Seas*, a Royal Caribbean ship cruising from Miami to Alaska via the Panama Canal, but he figured the work was routine. He would sweep and mop and scrub, and then go back to bed. He would mentally tote up his earnings and plan to send them to his mother in St. Vincent.

The kitchen was a mess, and McDonald says his supervisor told everyone to work quickly. Mops were handed out like rifles to infantrymen, and a crew of eight began hustling through their cleaning routine. McDonald picked up a pot full of oil from a fryer that had just been switched off. The pot was heavy and hot, and the oil made tiny shimmering waves as he labored to carry it to a sink where he could dump and scour. Halfway to his destination, McDonald slipped. He felt nothing as the scalding liquid drained down inside the rubber boot on his right leg, but jolts of adrenalin shot through the numbness as the oil cooked his leg and the top of his foot.

His crewmates carried him to the ship's clinic, where he was given ibuprofen. Doctors decided to wait and observe the afflicted area in order to determine how bad the burn was.

This is where McDonald's story and Royal Caribbean's diverge. According to company policy, if an employee is taken to an emergency room, the attending doctor will determine what kind of care is appropriate and where and when such treatment should be given. But McDonald says that the ship's doctor already told him he would be sent home to St. Vincent before he was taken to the hospital in Juneau. In depositions taken later, cruise line employees claimed that they adhered to the policy.

Notes written by the emergency room doctor in Juneau indicate that McDonald believed already that he would be sent to St. Vincent.

The ER doctor's notes also make it clear that McDonald's burns were mostly second-degree, with the possibility of some third-degree burns, a direct refutation of Royal Caribbean's claim that McDonald only had second-degree burns and was, therefore, fit to travel. Royal Caribbean medical case manager Terri DeBrita, who admittedly didn't know if the doctor she was sending McDonald to in St. Vincent had any medical license, said in a deposition that other crew members had received satisfactory treatment for second-degree burns in St. Vincent, though she couldn't remember any such cases specifically.

On May 24, after four days of nothing but ibuprofen on board the ship, McDonald began his journey from Vancouver to Miami.

When McDonald called a lawyer at 6:00 a.m. on Saturday, May 25, the attorney was annoyed. "I was in bed when I got the call from Mr. McDonald, and I thought, Jesus, what a hassle, you

know?" says James Walker. "I thought it was probably nothing, but I knew his family, so I dragged myself out of bed."

Walker was aghast when he saw McDonald's foot. "The smell was disgusting," he remembers. "And it was obvious that he was in a lot of pain and needed immediate medical care. When I saw it I was hyperventilating." Walker took McDonald to South Miami Hospital, but not before meeting up with a photographer who documented McDonald's injuries. The blister on top of McDonald's foot ruptured in the emergency room.

After two days of treatment at South Miami Hospital, Walker arranged for McDonald to be checked into Baptist Hospital, into the care of a burn specialist who treated and observed McDonald for about a week before performing skin graft surgery on the badly burned foot.

In the meantime, Walker had informed Royal Caribbean that McDonald was being treated in Miami. This was, apparently, not to the company's liking. On June 4, Royal Caribbean's crew medical manager, David Blackwell, fired off a letter to the Immigration and Naturalization Service (now part of the Department of Homeland Security) that put a decidedly unsympathetic spin on McDonald's decision to get his health care in the U.S. The letter stated, in part, that "upon his layover in Miami, (McDonald) was intercepted by an attorney, James Walker, and taken to South Miami Hospital." The letter also characterized McDonald's admission to Baptist Hospital and his skin graft surgery as "a move on the part of the attorney to keep the crewmember in Miami."

McDonald stayed in the hospital through July, receiving physical therapy for his leg and foot. The doctor prescribed a custom-fitted pressure sleeve for the newly grafted skin. Royal Caribbean had been talking to Walker about McDonald's INS requirements, asking that he present himself to an INS official so that he could ask to stay in the U.S. throughout the course of his medical rehabilitation. At this point, Walker was unaware of Blackwell's e-mail to INS, and while he was wary of Royal Caribbean's intent, he knew McDonald had to comply with the law and show up for the hearing. The cruise line arranged for transportation to an INS office in Miami. McDonald thought he'd be checking into a hotel somewhere in Miami after his INS appointment.

Instead, INS officials handcuffed McDonald and slapped shackles on his ankles. "I told the guy that it is paining me on my foot and I now have a skin graft and my foot is not cured, and he told me I must take my time and walk slowly," McDonald recalled in a deposition.

McDonald confesses that up to this point he still clung to the hope that he could go back to work on *Legend of the Seas* for Royal Caribbean. McDonald wasn't happy about missing work. He still owed money to an "agent," basically a cruise line recruiter, who charged McDonald \$1500 for his job on *Legend of the Seas*. "I really just want to get my leg fixed, get back to

work," says McDonald. He says he was frightened and confused by the immigration officials, and didn't know what he was signing when he signed a piece of paper admitting he was in the U.S. illegally, and that returning home would not put him in harm's way.

McDonald again sought advice from his mother.

Pearlie Hector called everyone she could, including St. Vincent's diplomatic representatives in Washington. After five days her son was released from jail. "I tried everything I could to get him out of there, but they wouldn't even let me leave his leg sleeve for the prison doctor," Walker says. "It was his mom who got him out." McDonald was released temporarily, and placed in a boarding house for foreign cruise workers. He continued medical treatment until his foot healed. Even with the skin graft, there is some scarring and discoloration, and he says it's a little stiff. "But I think it would be very much worse if I don't have the surgery," McDonald says.

After the cruise line refused to pay for much of his medical treatment, McDonald sued Royal Caribbean and won an undisclosed amount. "I'm not rich," he says, smiling. "But I'm okay."

The papers he signed prevented him from staying in the U.S. legally -- and from having a seaman's visa, which would enable him to go back to work for another cruise line.

Meanwhile, though, McDonald has become engaged to be married to a Haitian woman who resides in the U.S. and has applied for citizenship. McDonald is in the States illegally, working with an immigration lawyer to regain his legal status. "It doesn't look good because of the paper I signed," he says.

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Cruise ships, with crew from around the world, are often registered outside the U.S., allowing South Florida-based companies such as Carnival Cruise Lines and Royal Caribbean International to skirt some U.S. labor laws (*Legend of the Seas*, for example, is registered in Liberia). The jurisdictional jumble -- foreign nationals working on ships registered abroad and often operating in international waters -- creates a legal gray area that can work to the detriment of employees.

There are few industry watchdogs; this is no surprise given the disparate ethnic groups that work on cruise liners, the transient nature of employment (contracts for a single cruise are not uncommon), and the constant movement of the ships themselves. But those who do keep an eye on corporations such as Carnival and Royal Caribbean say that employees, especially foreign-born employees, are being funneled to cheap doctors in the Caribbean who provide sometimes inadequate care for cut-rate prices.

"We hear about it all the time," says Scott Brady, an inspector with the International Transport Workers' Federation in Cape Canaveral. "A lot of people don't want to complain, because they

want to keep their jobs. This line of work is the only hope for some of the poorer people from the Caribbean and from Eastern Europe, so they want to stay on with whatever company they're with. But you hear the horror stories." ITF doesn't keep any statistical data on health care for cruise line employees -- in fact, an exhaustive search conducted by *New Times* couldn't turn up a single advocacy group or agency that keeps comprehensive information on the subject.

"I can't prove anything, industry-wide, except that the cases keep coming in, and I see, one by one, instances where these companies are overlooking an obligation to provide quality medical care in order to save money," says Brett Rivkind, an attorney with the Miami firm Rivkind, Pedraza and Margulies. "We think it's cost-saving in terms of treatment, and also to avoid workers pursuing claims here in the U.S. They try to cover that up by saying 'We're sending them to their hometown,' as if there's sentimental value that counts for something."

Carnival settled such a case with Rivkind client Francisco Romero in August. "We had a case where a Carnival worker needed cataract surgery. He was using a Miami ophthalmologist, and the cruise line said, 'No, no, we want to send him home to Honduras,'" Rivkind recounts. "The ophthalmologist in Honduras had just had a baby, and her husband was studying to be an ophthalmologist, so she just let him do the surgery." Fifty-year-old Romero, a long-time Carnival employee, lost his eye in 2000, and filed suit in June 2001. Carnival fought the suit for more than two years. "It's not enough they let this happen, when they could easily have gotten him a good surgeon in the U.S., but then they fought us tooth and nail when he tried to get compensation," Rivkind says. The settlement included a nondisclosure clause, so he can't reveal the amount Carnival paid Romero.

"These companies are making decisions regarding crew members' medical conditions on a legal basis and a financial basis, rather than a medical basis," Rivkind avers.

U.S. immigration policy makes it easier to send foreign-born crew members to second-rate doctors in Third World countries, according to Rivkind and others. Foreign-born crew members need medical visas to receive treatment on U.S. soil. Medical visas are usually good for 30 days, and if a crew member needs an extension, the employer must produce documented proof of the need for further treatment. In some cases, Homeland Security requires that the crew member be produced in person. This arrangement can work out to the employers' advantage if the crew member is fighting to receive medical treatment in the U.S. "Look, it's impossible to prove collusion," says Rivkind. "But I've had calls from these companies saying, 'Yeah, sure, we'll get him the treatment he needs, but we have to produce him for an immigration hearing first, so he can stay in the country. It won't be a problem.' Next thing I know, the guy's being shipped home where he's likely to get god-only-knows what kind of care."

Royal Caribbean officials deny taking advantage of crew members. Blackwell, the crew medical manager, says that Royal Caribbean employs about 36,000 people, and takes good care of the 400 or so on medical leave around the world at any given time. But, he says, the company has to follow immigration rules. In the U.S., medical parole for foreign-born crew members is difficult to arrange since September 11, 2001 (Department of Homeland Security officials did not return phone calls asking about interaction with cruise lines).

"Immediately after 9/11 it was very difficult (to get medical parole for injured crew members) because of security," Blackwell says. "Then things kind of eased up a little. Recently, it's gotten more difficult again."

Blackwell says that medical parole in the U.S. is determined by immigration officials based on a doctor's evaluation. He also says the company can be fined up to \$50,000 for violating immigration laws. He refused to comment on specific cases, but when pressed by *New Times* about his e-mail alerting INS that Doran McDonald had been "intercepted by an attorney" at Miami International Airport, Blackwell offered this hypothetical situation: "Our obligation as a company is, if a crew member is in transit and in the process they arrive in Miami to change planes and they do not make the flight, we have an obligation as a company to let INS know that a crew member has jumped ship, essentially."

Rivkind admits that, post-9/11, more stringent adherence to U.S. immigration laws makes it harder for cruise lines to keep injured crew members for treatment in the U.S. "But I think they're using that, as well. They used to have an ability to keep these guys on medical parole if they wanted to. With immigration changes, I believe it is more difficult, but I think the cruise lines also take advantage of that."

While Blackwell was willing to speak to *New Times* -- though not about any specific cases -- weeks of back-and-forth with South Florida's other cruise line giant, Carnival Cruise Lines, resulted in an anemic e-mail response. Spokesperson Jennifer De La Cruz wrote that no information on the number of crew members the company employs was available, nor was there any available information on the number of crew members receiving medical treatment, in the U.S. or elsewhere.

ITF's Brady says that the cruise industry is notorious for pressuring employees to avoid making waves, even when their health is at stake. "I can't prove it because all I get is word of mouth," he says. "Every once in a while someone gets a lawyer, but they always include nondisclosure agreements in their settlements. And if word gets back to a cruise line that an employee is speaking with a union representative about these kinds of issues, they'd be fired from their jobs and probably blacklisted."

There is no shortage of anecdotal evidence of medical malfeasance by cruise lines. Brady has stories, and Walker and Rivkind each have had several clients with similar tales of woe. One of them, 28-year-old Azumi Sagara, is actually a U.S. citizen who says Royal Caribbean employees tried to delay her access to an emergency room until the ship she was on traveled to Nassau, and then refused to pay for her medical care. Sagara was an ice skater on Royal Caribbean's *Mariner of the Seas*. As the ship lumbered toward Port Canaveral on March 27, Sagara found herself doubled over in pain. "Something in my abdomen really hurt -- I didn't know what it was, but I knew I needed to see a doctor." She was told she was probably pregnant. When a quick test proved otherwise, the ship's medic said she probably had an infection. "The doctor gave me some pills and told me to come back in a week," Sagara says.

By 9:00 p.m. the pain was so severe, she knew she'd have to go to the emergency room when the ship docked in Port Canaveral the next day. That night she called a nurse, asking for a referral from the doctor to seek medical treatment in Port Canaveral the next day. "She said, 'I can't call the doctor for that, you'll have to wait until tomorrow.'"

Sagara knew that would likely mean she couldn't get treatment in the U.S. Crew members only had two opportunities to get off the ship in Port Canaveral: before the passengers started leaving at 7:30 a.m., and after all passengers had disembarked, at noon. Sagara knew that a trip to the doctor would mean she'd have to wait until noon to get off the ship, and she was in too much pain to do that. "And at that point, I thought maybe I could get back onboard that day, but we had to be back by 3:45 p.m., so waiting until noon would pretty much put that out of reach," Sagara says. She decided to get off the ship and to the emergency room by any means necessary. "The ship's security officer wouldn't let me off," she says. "I said, 'I'm in a lot of pain, I need to go to the ER.' While I was signing off, he told me to wait until we got to Nassau." Eventually, she made a break for it. "I ran past the security officer and got to the immigration guy. The security officer was saying, 'She's not cleared, she's not cleared.' I said, 'I need medical attention.' The immigration guy said, 'I can't stop you from going to your own country.'"

Doctors in the ER told Sagara she had pelvic inflammatory disease, and ruptured ovarian cysts with some internal bleeding. "They said I had to see a specialist immediately," she says. Sagara flew home to California, received a week's worth of medical care, and returned to the *Mariner* on April 4 after missing one week of work. She worked for Royal Caribbean for the duration of her contract, until May 2.

Royal Caribbean gave Sagara a written warning concerning her disembarkation without leave, and refused to pay for her wages, medical expenses, and transportation. She decided to hire Walker. The attorney exchanged contentious letters with Royal Caribbean for a week before the company agreed to pay a portion of Sagara's medical expenses (perhaps coincidentally, their call to Walker informing him of their newfound beneficence occurred



about a week after *New Times* called Royal Caribbean asking about Sagara's case), though they have yet to do so. Walker filed suit in July, alleging Sagara had been falsely imprisoned.

Calin Ioan, a Romanian citizen, formerly a bartender aboard Royal Caribbean's *Enchantment of the Seas* and also a client of Walker's, is lucky to be alive. Walker filed suit on Ioan's behalf after the 28-year-old repeatedly went to the ship's doctor with complaints of ear pain, starting in the summer of 2002. According to Walker, Ioan was given ibuprofen and sent back to work. The *Enchantment* docked at Port Everglades every weekend, but Ioan claims that the ship's doctor would only allow him to see a physician in St. Thomas in September 2002. That doctor gave Ioan a nasal spray and some ear drops.

Eventually, the doctor in St. Thomas suspected something more was wrong with Ioan and, in January 2003, recommended a CT scan and biopsy. The ship's doctor wrote an e-mail to David Blackwell and Ioan's medical case manager, Bill Sera, summing up the St. Thomas doctor's suspicions. The doctor also suggested that they wait until Ioan's contract ended on January 20 and arrange for him to see an ear, nose, and throat specialist once he returned to Romania. The shipboard physician, Bernhard Van Staden, ends his e-mail with overdue compassion: "I would like this to be sorted out, as he has been going with his problem for quite some time."

By the time Romanian doctors detected the tumor in Ioan's throat (on February 2, 2003), it had reached Stage IV -- the final stage of cancerous growth -- and had spread too far to be removed surgically. Radiation and chemotherapy have beaten the cancer into remission, but they also rendered Ioan unable to work. He has been living with his mother since his return. His medical bills mounted, and he says that Royal Caribbean will only pay for some of his treatment costs. He retained Walker, and is suing for his living bills and all medical expenses from the time of his arrival in Romania. Royal Caribbean officials wouldn't comment on his case.

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