

# Suing Royal Caribbean: Seventeen-Year-Old Girl Dies from Food Poisoning On RCCL Cruise Ship

by Spencer Aronfeld | Dec 17, 2018 | Cruise Ship Accidents, Our blog |

Seventeen-year-old Briana Martins died from Salmonellosis, while aboard [Royal Caribbean Cruise Line's Explorer of the Seas](#), after ingesting bacteria-ridden food. Her family [sued Royal Caribbean Cruise Lines](#), claiming seven counts of negligence that included serving the bad food aboard the ship and the negligent medical care she received from the ship's physician. Her mother also claimed to have suffered extreme emotional distress due to RCCL's negligence.

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RCCL sought successfully to have her claims dismissed for the negligent hiring, retention, and training of the shipboard medical staff. They now seek to have the remaining causes of action dismissed by summary judgment. To defeat a motion for summary judgment, one must demonstrate to the court that there is a genuine issue of material fact, supported by solid evidence; the case should then proceed to a jury.

All cases like this against a cruise line are governed by the Federal Rules of Civil Procedure, and the Southern District of Florida has its own subset of Local Rules with even more particular requirements as to how to respond to a motion to summary judgment. Those requirements are detailed, right down to the size of the font used in the pleadings.

It appears from the court record that the lawyers representing this family did not comply with the Local Rules, causing a number of disputed facts to be "deemed admitted." When a party fails to follow the Local

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1

Rules, courts can easily identify the non-compliance and grant the motion at their discretion. The record also shows that neither RCCL nor the family followed the requirements, and the court found both their responses to be defective.

RCCL's primary defenses were that the medical staff were not really employees of RCCL, but rather independent contractors for whom RCCL had no legal responsibility, and that the plaintiff could not prove that the death was caused by food poisoning contracted on the ship. Both sides offered expert testimony as to whether or not the bad food was ingested on the ship.

Additionally, RCCL tried to limit all damages to those available under the [Death on the High Seas Act \(DOHSA\)](#), which defines the monetary compensation as well as which surviving family members can file claims when a passenger dies aboard a cruise ship because of the cruise line's careless acts. For example, [DOHSA](#) prevents survivors from claiming pain and suffering and mental anguish, allowing monetary damages under only very narrow terms.

In this case, the half-sister and stepfather of Ms. Martins did not have recognizable claims under DOHSA, which excludes non-dependent siblings and step parents, allowing only family members who can prove with "reasonable certainty" a financial dependency on the deceased passenger.

Emotional distress claims are extremely difficult to prove in maritime cases, and while we can certainly understand that this death must have been excruciatingly traumatic for the girl's mother, the court found that the mother's claim did not meet the strict legal requirements to prove a claim of negligent infliction of emotional distress against RCCL.

Specifically, the law requires that there was actual physical impact or that the claimant (mother) was in the "zone of danger" (no physical impact) at the time of the event. The court was not persuaded by the mother's argument that her physical impact came from ingesting the same food as her daughter and that the mother was terrified that she too would contract Salmonellosis. Fortunately, the mother did not contract the disease nor did she manifest any injury from the emotional distress. Courts have routinely held that mere exposure to the dangerous substance (bad food) does not constitute the "physical impact" required for an emotional distress case.

The case against RCCL will proceed to a jury on the remaining claims, and in the meantime, we extend the family our deepest sympathies and good wishes.

### **Suing Royal Caribbean Cruise Lines**

This case illustrates some of the complex legal issues that govern [cruise ship passenger injury and death claims](#) against cruise lines. Since 1991 our [maritime injury attorneys](#) have fought hard on behalf of people from around the world—and their families—who have been killed or [injured while on a cruise ship](#). [Suing Royal Caribbean](#) requires the knowledge of an attorney who is well versed in maritime injury law. We offer free confidential initial consultations by telephone at [1-866-597-4529](tel:1-866-597-4529) or [305-441-0440](tel:305-441-0440), SKYPE, or email at [newcase@aronfeld.com](mailto:newcase@aronfeld.com).

Since there is a one-year statute of limitations (legal deadline) to file a claim against cruise lines—like RCCL, Celebrity, Carnival, NCL, MSC, Disney, Regent, Princess, and Holland America—it is important to consult with an [experienced cruise ship injury lawyer](#) immediately. We are ready to help you obtain fair and reasonable compensation for your loss. Damages include money for pain and suffering, medical expenses, and time lost from work. Call us today.

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