

<b>TITLE:</b>	<b>DEFENDING PASSENGER INJURY CLAIMS</b>	<b>DATE</b>	<b>19/10/2004</b>
<b>CATEGORY:</b>	<b>MISC</b>	<b>AREA:</b>	<b>WORLDWIDE</b>

The Club is aware of two claims brought by passengers that were successfully defended in court when it was proved the ships involved operated good and sound procedures. These resulted in the existence of an effective safety culture, thorough incident investigations and the collection of evidence.

The first involved a claim by a cruise passenger in respect of injuries sustained while on a shore trip on a Caribbean island and the second, a ferry passenger who slipped down an outside stairway on the ship. Both claims were brought by 'little old ladies' against large, well-known, companies and both were successfully defended, the victories restoring some faith in the County Court system and the application of common sense.

The key to both successful defences was obtaining comprehensive evidence from the relevant members of the crew of the respective ships and ensuring that the officers concerned appeared in court to give evidence in person. Both cases were ultimately resolved in owners' favour on the basis of the evidence presented as to the safety procedures engaged by the crew and because neither claimant could satisfy the court how the accidents had happened or why the ship owner was at fault.

In the former case, owners could show how the ship's Safety Officer conducted a thorough inspection of the island's facilities before allowing the passengers ashore and the court was satisfied that the small plastic pipe on which the claimant may have cut her leg (although it was never established that this was the cause of the injury) could not be regarded as presenting a foreseeable risk of injury. In the latter case, the court found that the Captain's announcements to take care on the ship's open decks and stairways and the signage on the doors leading to all outside decks, together with the regular inspections of the decks by the crew, meant that the owners had done all that could reasonably be expected of them in terms of ensuring passenger safety. The claimant in this case did not help her cause by insisting until the very last moment that the green anti-slip paint on the ship's deck was algae and that this is what had caused her to slip.

What these cases do highlight is that, provided that an owner can produce cogent evidence of the procedures it engages to minimise the risk of injury and that these procedures are as thorough as can reasonably be expected, there is no reason why personal injury claims by passengers cannot be successfully defended, even when the claimant is someone who will inevitably attract sympathy from the court.

*The Club thanks solicitors LA Marine for providing this information*