

IN THE CIRCUIT COURT OF THE 11TH  
JUDICIAL CIRCUIT, IN AND FOR  
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO: 11-23730 CA 30

LISA SPEARMAN,

Plaintiff,

v.

ROYAL CARIBBEAN CRUISES LTD.,

Defendant

/

**AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff, LISA SPEARMAN, sues Defendant, ROYAL CARIBBEAN CRUISES LTD., and states, as follows:

**JURISDICTION, PARTIES & VENUE**

1. This is an action for damages that exceed fifteen thousand dollars (\$15,000.00), exclusive of interest, costs, and attorney fees.
2. Defendant, ROYAL CARIBBEAN CRUISES LTD., at all times material hereto, personally or through an agent:
  - a. Operated, conducted, engaged in, or carried on a business venture in this state and/or county or had an office or agency in this state and/or county;
  - b. Was engaged in substantial activity within this state;
  - c. Operated vessels in the waters of this state;
  - d. Committed one or more of the acts stated in Florida Statutes, Section 48.081, 48.181 or 48.193;

- e. The acts of Defendant set out in this Complaint occurred in whole or in part in this county and/or state.
3. Defendant, ROYAL CARIBBEAN CRUISES LTD., is subject to the jurisdiction of the Courts of this state.
4. The causes of action asserted in this Complaint arise under the Jones Act, 46 U.S.C. Section 30104, the Seaman's Wage Act, 46 U.S.C. Section 30313 and the General Maritime Law of the United States.
5. At all times material hereto, Defendant owned, operated, managed, maintained and/or controlled the vessel *VOYAGER OF THE SEAS*. This vessel was registered in a flag of convenience country.
6. At all times material hereto, Plaintiff's employer was an agent of the ship owner and/or ship operator.
7. At all times material hereto, the vessel was owned, operated, managed, maintained and/or controlled by Defendant.
8. At all times material hereto, Defendant is vicariously liable for the actions and inactions of the ship's crew, including the ship's nurse and ship's security staff, and the medical providers it selected and/or paid to treat Plaintiff.
9. On or about August 16, 2008, Plaintiff was employed by Defendant as a seaman and was a member of the vessel's crew. The vessel was in navigable waters.
10. On or about the above referenced date, Plaintiff was injured while aboard the vessel as follows: Plaintiff's right hand was crushed by a watertight/fire-resisting door while she was coming to the aid of another crew member (the ship's nurse) that stumbled while passing through the watertight/fire-resisting door during the emergency test.

11. Defendant refused to re-hire Plaintiff and then refused to pursue disability benefits on her behalf pursuant to its Policy No. B0391YD013380g, including but not limited to: reinstatement of Temporary Total Disablement (TTD) and Permanent Total Disablement (PTD).

**COUNT I**  
**JONES ACT NEGLIGENCE**

Plaintiff realleges, incorporates by reference, and adopts paragraphs one through eleven as though they were originally alleged herein and further alleges:

12. It was the duty of Defendant to provide Plaintiff with a safe place to work.
13. Plaintiff's injuries are due to the fault and negligence of Defendant, and/or its agents, servants, and/or employees as follows:
  - a. Failure to use reasonable care to provide and maintain a proper and adequate machinery, crew and equipment;
  - b. Failure to use reasonable care to provide Plaintiff a safe place to work;
  - c. Failure to promulgate and enforce reasonable rules and regulations to insure the safety and health of the employees and more particularly the Plaintiff, while engaged in the course of his employment on said vessel;
  - d. Failure to use reasonable care to provide Plaintiff a safe place to work due to:
    - Failed to properly train crew members, including the medical and security staff, regarding the watertight/fire-resisting door test; and/or
    - Failed to adequately manage and/or inform crew members, including the medical staff, to not pass through or operate the watertight/fire-resisting doors during the tests; and/or
    - Failed to adequately manage and/or train ship's security staff on how to stop crew members, including the medical staff, from not passing through and/or not operating the watertight/fire-resisting door during a test; and/or
    - Failed to adequately manage and/or train ship's security staff on notifying crew members and others coming onto the ship through security when tests and/or drills were taking place so as to avoid injury; and/or
    - Failed to adequately manage and/or train ship's supervisors on how to stop

crew members, including the medical staff, from not following procedures during a the watertight/fire-resisting door test; and/or

- The ship's security staff, employees of the Defendant, failed to notify the ship's nurse that the watertight/fire-resisting door test was taking place when the nurse entered the ship and passed through security on the date of the incident; and/or
- The ship's security staff, employees of the Defendant, failed to stop the ship's nurse from passing through the watertight/fire-resisting door while the test was taking place; and/or
- Failure to train and/or instruct medical personnel and other crew members to appropriately respond to an injured crew member and/or report an emergency to get proper assistance; and/or
- The ship's nurse, an employee of Defendant, opened a closed watertight/fire-resisting door during a test in violation of the rules; and/or
- Allowing ship's nurse to open a closed watertight/fire-resisting door during a test; and/or
- Failed to prevent crewmembers, including the medical staff, from opening watertight/fire-resisting doors during tests; and/or
- Failed to post a crew member at the watertight/fire-resisting door to monitor it during the test; and/or
- Failed to have adequate and/or operational safety equipment on the subject watertight/fire-resisting door; and/or
- Failed to have a properly designed watertight/fire-resisting door and/or door frame to prevent hands and arms from being crushed when the door slides into the cruise ship wall, including failing to have a cut out; and/or
- Failed to follow the safety management system on board regarding watertight/fire-resisting tests and/or watertight/fire-resisting doors; and/or
- Ship's nurse disregarded the watertight/fire-resisting door test and opened the watertight/fire-resisting door; and/or
- Ship's nurse knew or should have known a watertight/fire-resisting door test was taking place before she manually opened the watertight/fire-resisting door and passed through at the time of the incident; and/or
- Endangered the life of Plaintiff who came to the aid of a crew member (the

ship's nurse), who was in danger due to her carelessness and disregard for the watertight/fire-resisting door test; and/or

- The ship's nurse failed to exercise reasonable care for her own safety and the safety of other crew at the time of the subject incident; and/or
  - Failed to provide an adequate method and/or equipment and/or training to timely notify the bridge of an emergency during the tests and/or drills; and/or
  - Failed to have adequate policies and/or procedures for prevention of safety breaches by crewmembers, including medical staff; and/or
  - Failed to have adequate supervision to prevent safety breaches; and/or
  - Failed to provide adequate warnings, including but not limited to signs, yellow tape/markings and/or other visual cues; and/or
  - Failed to maintain the subject fire door and area in a safe condition; and/or
  - Failed to maintain the area of subject fire door in a trip free condition; and/or
  - Failed to correct the tripping hazard in the area of subject fire door; and/or
  - Failed to conduct regular inspections on fire doors for defects and/or safety problems; and/or
  - Failed to have and/or implement safeguards that would have prevented the subject incident; and/or
  - Failed to have safety equipment; and/or
  - Failed to provide adequate instruction on how to properly operate a fire door; and/or
  - Failed to provide adequate instruction(s) and/or warning(s), including but not limited to posted signs, advising crewmembers/medical staff of what to do in case of an emergency; and/or
- e. Failure to provide adequate instruction, and supervision to crew members and Plaintiff;
  - f. Failure to provide prompt, proper and adequate medical care which aggravated Plaintiff's injuries and caused her additional pain and disability;
  - g. Failure to provide Plaintiff and other crew members who were associated with Plaintiff or Plaintiff's incident giving rise to the action, reasonable hours of

employment so as to not overwork them to the point of not being physically fit to carry out their duties. Defendant's employees are overworked to the point of fatigue;

- h. Defendant have failed to learn and apply the common and well known principles of industrial ergonomics on board the vessel;
- i. Defendant used outmoded work methods and procedures and neglected modern material handling techniques;
- j. Defendant failed to train workers properly, such as Plaintiff and the work crews are undersized. As a result Defendant is having small work crews doing jobs traditionally handled by larger crews;
- k. Defendant failed to provide Plaintiff with mechanized aids commonly available in other heavy industries;
- l. Failure to ascertain the cause of prior similar accidents so as to take measures to prevent their re-occurrence, and more particularly Plaintiff's accident;
- m. Failure to follow sound management practices with the goal of providing Plaintiff a safe place to work;
- n. Prior to Plaintiff's accident Defendant failed to investigate the hazards to Plaintiff and then take the necessary steps to eliminate the hazards, minimize the hazard or warn Plaintiff of the danger from the hazard;
- o. Defendant failed to perform an adequate pre-employment physical on Plaintiff so as to determine the dangers to Plaintiff of working on the vessel;
- p. Defendants failed to adhere to the Seafarers' Hours of Work and the Manning of Ships Convention, 1996; with respect to the hours of work and rest as well as other standards such as ILO 147;
- q. Defendants failed to select and utilize competent, skilled and properly trained medical care providers with proper and adequate medical equipment with respect to the Plaintiff's medical care;
- r. Defendants failed to provide Plaintiff with enough sleeping time so as to cause Plaintiff and the other crew members on the vessel the same physical and mental impairments as being drunk. These type of impairments have been documented in the Journal of Occupational and Environmental Medicine; 57:649-655 (October 2000);
- s. Defendants failed to properly medically manage Plaintiff's medical care after Plaintiff was injured;

- t. At all times material hereto, Defendant negligently failed to determine the hazards on the vessel to Plaintiff, failed to eliminate the hazards, failed modify the hazard and failed to properly warn Plaintiff of the hazard. In addition, Defendant violated the International Safety Management Code and failed to have a proper, adequate and safe Safety Management System Manual. All of the above caused the Plaintiff to be injured.
14. Defendant knew of the foregoing conditions causing Plaintiff's accident and did not correct them, or the conditions existed for a sufficient length of time so that Defendant in the exercise of reasonable care should have learned of them and corrected them.

15. As a result of the negligence and recklessness of Defendant, the Plaintiff was injured about Plaintiff's body and extremities, suffered physical pain and suffering, mental anguish, reasonable fear of developing future physical and medical problems, loss of enjoyment of life, physical disability, impairment, inconvenience on the normal pursuits and pleasures of life, feelings of economic insecurity caused by disability, disfigurement, aggravation of any previously existing conditions there from, incurred medical expenses in the care and treatment of Plaintiff's injuries, suffered physical handicap, lost wages, income lost in the past, and her working ability and earning capacity has been impaired. The injuries and damages are permanent or continuing in nature and Plaintiff will suffer the losses and impairments in the future. Plaintiff's ring was damaged. In addition Plaintiff in the past and in the future has lost the fringe benefits that come with Plaintiff's job, including but not limited to found, free food, free shelter, free medical care, free uniforms, vacation, and free airline ticket home and back.

WHEREFORE, Plaintiff demands all damages entitled to by law, attorney's fees, prejudgment and post-judgment interest, costs and demands jury trial of all issues so triable.

**COUNT II**  
**UNSEAWORTHINESS**

Plaintiff realleges, incorporates by reference, and adopts paragraphs one through fifteen as though they were originally alleged herein and further alleges:

16. On or about the previously stated date, Plaintiff was a seaman and a member of the crew of Defendant's vessel, which was in navigable waters.

17. At all times material hereto, the vessel was owned, managed, operated and/or controlled by Defendant.

18. Defendant had the absolute nondelegable duty to provide Plaintiff with a seaworthy vessel.

19. On or about the previously stated date the unseaworthiness of Defendant's vessel was a legal cause of injury and damage to Plaintiff by reason of the following:

- a. The vessel was unsafe and unfit due to the conditions created by Defendant as follows:
  - Failed to properly train crew members, including the medical and security staff, regarding the watertight/fire-resisting door test; and/or
  - Failed to adequately manage and/or inform crew members, including the medical staff, to not pass through or operate the watertight/fire-resisting doors during the tests; and/or
  - Failed to adequately manage and/or train ship's security staff on how to stop crew members, including the medical staff, from not passing through and/or not operating the watertight/fire-resisting door during a test; and/or
  - Failed to adequately manage and/or train ship's security staff on notifying crew members and others coming onto the ship through security when tests and/or drills were taking place so as to avoid injury; and/or
  - Failed to adequately manage and/or train ship's supervisors on how to stop crew members, including the medical staff, from not following procedures during a the watertight/fire-resisting door test; and/or

- The ship's security staff, employees of the Defendant, failed to notify the ship's nurse that the watertight/fire-resisting door test was taking place when the nurse entered the ship and passed through security on the date of the incident; and/or
- The ship's security staff, employees of the Defendant, failed to stop the ship's nurse from passing through the watertight/fire-resisting door while the test was taking place; and/or
- Failure to train and/or instruct medical personnel and other crew members to appropriately respond to an injured crew member and/or report an emergency to get proper assistance; and/or
- The ship's nurse, an employee of Defendant, opened a closed watertight/fire-resisting door during a test in violation of the rules; and/or
- Allowing ship's nurse to open a closed watertight/fire-resisting door during a test; and/or
- Failed to prevent crewmembers, including the medical staff, from opening watertight/fire-resisting doors during tests; and/or
- Failed to post a crew member at the watertight/fire-resisting door to monitor it during the test; and/or
- Failed to have adequate and/or operational safety equipment on the subject watertight/fire-resisting door; and/or
- Failed to have a properly designed watertight/fire-resisting door and/or door frame to prevent hands and arms from being crushed when the door slides into the cruise ship wall, including failing to have a cut out; and/or
- Failed to follow the safety management system on board regarding watertight/fire-resisting tests and/or watertight/fire-resisting doors; and/or
- Ship's nurse disregarded the watertight/fire-resisting door test and opened the watertight/fire-resisting door; and/or
- Ship's nurse knew or should have known a watertight/fire-resisting door test was taking place before she manually opened the watertight/fire-resisting door and passed through at the time of the incident; and/or
- Endangered the life of Plaintiff who came to the aid of a crew member (the ship's nurse), who was in danger due to her carelessness and disregard for the watertight/fire-resisting door test; and/or

- The ship's nurse failed to exercise reasonable care for her own safety and the safety of other crew at the time of the subject incident; and/or
  - Failed to provide an adequate method and/or equipment and/or training to timely notify the bridge of an emergency during the tests and/or drills; and/or
  - Failed to have adequate policies and/or procedures for prevention of safety breaches by crewmembers, including medical staff; and/or
  - Failed to have adequate supervision to prevent safety breaches; and/or
  - Failed to provide adequate warnings, including but not limited to signs, yellow tape/markings and/or other visual cues; and/or
  - Failed to maintain the subject fire door and area in a safe condition; and/or
  - Failed to maintain the area of subject fire door in a trip free condition; and/or
  - Failed to correct the tripping hazard in the area of subject fire door; and/or
  - Failed to conduct regular inspections on fire doors for defects and/or safety problems; and/or
  - Failed to have and/or implement safeguards that would have prevented the subject incident; and/or
  - Failed to have safety equipment; and/or
  - Failed to provide adequate instruction on how to properly operate a fire door; and/or
  - Failed to provide adequate instruction(s) and/or warning(s), including but not limited to posted signs, advising crewmembers/medical staff of what to do in case of an emergency; and/or
- b. The vessel's crew was not properly trained, instructed or supervised;
- c. The vessel did not have a fit crew;
- d. The vessel did not have adequate manpower for the task being performed;
- e. The crew and Plaintiff were overworked to the point of being exhausted and not physically fit to carry out their duties.
20. As a result of the unseaworthiness of the vessel, the Plaintiff was injured about

Plaintiff's body and extremities, suffered physical pain and suffering, mental anguish, reasonable fear of developing future physical and medical problems, loss of enjoyment of life, physical disability, impairment, inconvenience on the normal pursuits and pleasures of life, feelings of economic insecurity caused by disability, disfigurement, aggravation of any previously existing conditions there from, incurred medical expenses in the care and treatment of Plaintiff's injuries, suffered physical handicap, lost wages, income lost in the past, and her working ability and earning capacity has been impaired. The injuries and damages are permanent or continuing in nature and Plaintiff will suffer the losses and impairments in the future. Plaintiff's ring was damaged. In addition Plaintiff in the past and in the future has lost the fringe benefits that come with Plaintiff's job, including but not limited to found, free food, free shelter, free medical care, free uniforms, vacation, and free airline ticket home and back.

WHEREFORE, Plaintiff demands all damages entitled to by law, attorney's fees, pre-judgment and post-judgment interest, costs and demands jury trial of all issues so triable.

**COUNT III**  
**FAILURE TO PROVIDE MAINTENANCE AND CURE**

Plaintiff realleges, incorporates by reference, and adopts paragraphs one through twenty as though they were originally alleged herein and further alleges:

21. On or about the previously stated date, Plaintiff while in the service of the vessel as a crew member was injured.

22. Under the General Maritime Law and by operation of treaty, Plaintiff, as a seaman, is entitled to recover maintenance and cure from Defendant, until she is declared to have reached maximum possible cure. This includes unearned wages (regular wages, overtime, vacation pay and tips), which are reasonably anticipated to the end of the contract or voyage, whichever is longer.

23. Defendant failed to provide Plaintiff with prompt, proper and adequate medical treatment for her injuries and other injuries/illnesses developed while in the service of the vessel, including, but not limited to, the improper splinting of Plaintiff's hand by the doctor chosen by the Defendant, resulting in further injury, including, but not limited to, reduced mobility and function. Defendant failed to provide Plaintiff with an adequate amount of maintenance money. Defendant failed to provide Plaintiff with timely maintenance and cure benefits. Defendant prematurely terminated Plaintiff's maintenance and cure benefits.

24. Defendant willfully and callously delayed, failed and refused to pay Plaintiff's entire maintenance and cure, including failure to provide prompt, proper and adequate maintenance and cure, so that Plaintiff has become obligated to pay the undersigned a reasonable attorney's fee.

25. Defendant's failure to pay Plaintiff's entire maintenance and cure is willful, arbitrary, capricious, and callous disregard for Plaintiff's rights as a seaman. As such, Plaintiff would be entitled to attorney's fee under the General Maritime Law of the United States. Further Defendant unreasonable failure to pay or provide maintenance and cure caused Plaintiff to suffer additional compensatory damages including but not limited to the aggravation of Plaintiff's physical condition, disability, pain and suffering, reasonable fear of developing future physical and medical problems, mental anguish, loss of enjoyment of life, feelings of economic insecurity as well as lost earnings or earning capacity, and medical and hospital expenses in the past in into the future.

26. Defendant's breaches of its non-delegable duty to provide maintenance and cure to Plaintiff were willful and wanton.

27. Due to Defendant's breach of its non-delegable duty to provide maintenance and

cure, Plaintiff is entitled to recover her attorneys' fees from Defendant.

WHEREFORE, Plaintiff demands all damages entitled to by law, attorney's fees, prejudgment and post-judgment interest, costs and demands jury trial of all issues so triable.

**COUNT IV**  
**FAILURE TO TREAT**

Plaintiff realleges, incorporates by reference, and adopts paragraphs one through twenty-seven as though they were originally alleged herein and further alleges:

28. On or about the previously stated date, Plaintiff was employed by Defendant as a seaman and was a member of the vessel's crew. The vessel was in navigable waters.

29. It was the duty of Defendant to provide Plaintiff with prompt, proper and adequate medical care.

30. Defendant through the ship's physicians, and/or shore side physicians and nurses negligently failed to promptly provide Plaintiff with prompt, proper, adequate, and complete medical care. This conduct includes, but is not limited to:

- a. Defendant not giving Plaintiff medical care in a timely and proper manner after her initial injury, and/or;
- b. Defendant failed to provide Plaintiff with adequate assistance and/or money to obtain adequate assistance with her activities of daily living that were substantially impaired following the subject incident; and/or
- c. Defendant not adequately diagnosing and treating the Plaintiff, including, but not limited to improperly splinting Plaintiff's hand, all of which aggravated and/or worsened her condition and/or;
- d. Defendant prematurely terminating Plaintiff's medical care and not providing her with recommended medical care.

31. As a direct and proximate result of Defendants' failure, Plaintiff suffered additional pain, disability and/or Plaintiff's recovery was prolonged.

32. In addition, the Plaintiff was injured about Plaintiff's body and extremities,

suffered physical pain and suffering, mental anguish, reasonable fear of developing future physical and medical problems, loss of enjoyment of life, physical disability, impairment, inconvenience on the normal pursuits and pleasures of life, feelings of economic insecurity caused by disability, disfigurement, aggravation of any previously existing conditions there from, incurred additional medical expenses in the care and treatment of Plaintiff's injuries, suffered physical handicap, lost wages, income lost in the past, and Plaintiff's ability and earning capacity has been impaired. The injuries and damages are permanent or continuing in nature and Plaintiff will suffer the losses and impairments in the future.

33. This Count is alleged separately from Jones Act Negligence pursuant to *Joyce v. Atlantic Richfield Company*, 651 F.2d 676 (10th Cir. 1981), which stated, in part, "Negligent failure to provide prompt medical attention to a seriously injured seaman gives rise to a separate claim for relief [for which separate damages are awardable]."

34. Due to Defendant's willful and reckless failure to treat Plaintiff's medical conditions, and due to Defendant's provision of substandard medical care in reckless disregard of Plaintiff's rights, Plaintiff will seek to amend this Complaint to add a claim for punitive and exemplary damages against Defendant.

35. Due to Defendant's breaches of its non-delegable duty to provide prompt medical attention, Plaintiff is entitled to an award of attorneys' fees against Defendant.

WHEREFORE, Plaintiff demands all damages entitled to by law, attorney's fees, prejudgment and post-judgment interest, costs and demands jury trial of all issues so triable.

**COUNT V**  
**WAGES AND PENALTIES**  
**46 USCA SECTION 10313**

Plaintiff realleges, incorporates by reference, and adopts paragraphs one through thirty-five as though they were originally alleged herein and further alleges:

36. At all times material hereto, Plaintiff was employed as a seaman in the service of the vessel.

37. While in the service of the ship, Plaintiff performed all the work required of her, and carried out the orders given by her superiors.

38. Plaintiff was discharged without any lawful, just or sufficient cause. At the time of Plaintiff's discharge, Defendant did not pay Plaintiff all of her earned wages, including wages, vacation pay and bonus. Defendant has sole custody and control of Plaintiff's wage records and personnel file. These documents are needed by Plaintiff to review to show exact dates and amounts with respect to earned wages owing to Plaintiff and deductions made from such earned wages.

39. At the time of Plaintiff's discharge, Plaintiff demanded all her wages, including reimbursement of deductions made from Plaintiff's earned wages.

40. Defendant refused to pay Plaintiff all her earned wages (including vacation pay and bonus) or reimburse Plaintiff for the deductions made there from, without sufficient cause.

41. Under 46 U.S.C.A. Section 10313, Plaintiff is entitled to her earned wages, vacation pay, bonus, deductions, and two days wages for each day payment is delayed.

WHEREFORE, Plaintiff demands all damages entitled to by law, attorney's fees, prejudgment and post-judgment interest, costs and demands jury trial of all issues so triable.

**COUNT VI**  
**RETALIATORY DISCHARGE**

Plaintiff realleges, incorporates by reference, and adopts paragraphs one through forty-one as though they were originally alleged herein and further alleges:

42. As a result of the above referenced injury, Plaintiff claimed maintenance and cure benefits from Defendant pursuant to the General Maritime Law of the United States as well as

other claims against Defendant.

43. Defendant's doctors determined the Plaintiff was fit for duty for her position as Marketing and Revenue Manager.

44. Defendant's doctors determined the Plaintiff was unable to physically perform the emergency duties set forth in Defendant's written position summary for her job, including lifting up to fifty (50) pounds.

45. Plaintiff, as an officer on the ship, had emergency duties to serve as an evacuation leader. Plaintiff's emergency duties were supervisory, a guidance role that was not physical. It did not require her to have full use of her hand or to be able lift up to fifty (50) pounds as set forth in the written position summary for her job.

46. Defendant refused to re-hire Plaintiff.

47. Defendant refused to re-hire Plaintiff because of her legal claims.

48. As a direct and proximate result of Defendant's refusal to re-hire Plaintiff, Plaintiff suffered damages.

WHEREFORE, Plaintiff demands all damages entitled to by law, wages, penalties, court costs, attorney's fees, prejudgment and post-judgment interest and demands jury trial of all issues so triable.

**COUNT VII**  
**BREACH OF CONTRACT**

Plaintiff realleges, incorporates by reference, and adopts paragraphs one through forty-eight as though they were originally alleged herein and further alleges:

49. Defendant provided Plaintiff with disability insurance coverage as benefit of her employment with Defendant.

50. Pursuant to the disability insurance policy, Defendant was the Assured/Insured

Party.

51. Pursuant to the disability insurance policy, Plaintiff was one of the Insured Persons to benefit from the policy.

52. Defendant determined Plaintiff was not fit for duty, even though Plaintiff's medical providers paid by the Defendant indicated she was able to perform the duties of her specific job position but not the written description of emergency duties.

53. Defendant refused to re-hire Plaintiff despite her request to return to work.

54. When the underwriters of the subject disability insurance policy denied Plaintiff's claims for reinstatement of Temporary Total Disablement (TTD) and Permanent Total Disablement (PTD), Defendant refused to pursue those claims on behalf of Plaintiff, despite Plaintiff's request.

55. Pursuant to the subject disability insurance policy, only Defendant as the Insured Party could pursue a claim under the policy.

56. At all material times herein, Defendant breached its contract with Plaintiff by failing to pursue Plaintiff's claims under the disability insurance policy which caused her damages.

WHEREFORE, Plaintiff demands judgment against the Defendant for damages, wages, penalties, court costs, attorney's fees and pre and post judgment interest as permitted by law and any other relief this Court deems just and appropriate.

**DEMAND FOR TRIAL BY JURY**

Plaintiff, LISA SPEARMAN, demands a trial by jury of all issues so triable as a matter of right.

## **CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY**, that a true and correct copy of the foregoing was furnished on this 8<sup>th</sup> day of April, 2016 via e-mail to:

Randy Ginsberg, Esq.  
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- AND -

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