

# Supplementary Submission 12.1

## Attachment B

### **Exhibit II**

Including

1. Summary of Passenger and Crew Overboard
2. Cruise Lines Legal Position and Procedures for Investigation Crimes on Cruise ships

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Source: [Cruise Junkie dot com](http://CruiseJunkie.com)

### Cruise and Ferry Passengers and Crew Overboard 1995 - 2013

Summary (# of persons) – 2000 - 2013															
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
<b>Carnival Corp</b>															
Carnival	2	1		3	4	6	5	7	2	8	3	3	4		48
Costa							1	1	1	3	1	2	2		11
Cunard		1			1	1	1								4
Holland America				2		1	1			1	1	2	2		10
Ocean Village									1						1
P&O								1					1		2
P&O Australia				1		1				1			1		4
Princess	1			1		1		2		2	1	2			10
Seabourn							1								1
Crystal					1	2									3
<b>RCCL</b>															
Celebrity					1		1		1	1	2	4			10
RCI	3	1	2		3	3	4	1		2	3	2	5		29
NCL (Star)	1		2	1		1	2		2	1	3	2			15
Silversea					1					1					2
Other	2	2		1	1		6	8	3	5	6	5	8		46
<b>Total</b>	<b>9</b>	<b>5</b>	<b>4</b>	<b>9</b>	<b>12</b>	<b>16</b>	<b>22</b>	<b>20</b>	<b>10</b>	<b>25</b>	<b>20</b>	<b>22</b>	<b>23</b>		<b>197</b>

Source: Cruise Junkie dot Com

Below is a comprehensive list of known cases of persons falling or jumping overboard since 1995. All accounts (unless indicated) were reported in a media source or (in several cases) reported in private correspondence.

LINKS: [Home Page](#) [Events Page](#) [Health Outbreaks](#) [Int'l Centre for Cruise Research](#) [International Cruise Victims' \(ICV\) Organization](#)

Date	Ship Cruise Line	Incident	Disposition
2013			

**Cruise Lines' Legal Position on  
Investigations of Crimes and Their  
Procedures for  
Investigating Crimes**

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## MEMORANDUM OF LAW

### I. Count I - Fraudulent Concealment

The "fraudulent concealment" claim is premised on RCCL's alleged failure to timely investigate Merrian Carver's disappearance and RCCL's failure to provide certain information to Plaintiffs and other third parties following her disappearance. Plaintiffs allege that RCCL failed "to investigate the disappearance of a passenger and to report the disappearance to the emergency contact listed by said passenger," or, "to timely notify the passenger's next of kin and the appropriate law enforcement personnel." Further, they allege that RCCL had a duty to the family members of Merrian Carver "to provide all relevant, material and wholly truthful information."

These statements are legally invalid. There is no court of law that has recognized the legal duties contrived by Plaintiffs in this Complaint. In fact, courts have specifically held that no duty to investigate exists. See *Doe v. Celebrity*, 145 F. Supp. 2d 1337 (S.D. Fla. 2001); *York v. Commodore Cruise Lines, Ltd.*, 963 F.Supp. 159 (S.D.N.Y. 1994). The only duty owed by a ship owner to a passenger is that of reasonable care under the circumstances. *Kermarec v. Compagnie Generale Transatlantique*, 358 U.S. 625, 79 S.Ct. 406, 410 (1959). Moreover, a cruise ship operator owes no duty, whether to disclose information or otherwise, to third parties such as the Plaintiffs herein. Absent a duty to disclose, there can be no claim for "fraudulent concealment."

### II. Count II - Intentional Infliction of Emotional Distress

The claim for Intentional Infliction of Emotional Distress simply re-alleges multiple paragraphs from the prior count, for fraudulent concealment. This cannot form the basis of a claim, as the practice of incorporating the allegations of prior counts into succeeding counts is prohibited under Florida law.

[REDACTED]

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Kendall Carver

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From: [REDACTED]  
Subject: Royal Caribbean responses

7. Royal Caribbean's frequent defense is that there is no duty to investigate crimes and no duty to assist families with investigations. Moreover, there are several examples of when the cruise line has denied information - including employee names, security tapes, etc. - to families. Please reconcile those actions with comments from Richard Fain in the annual report and other public statements from spokespersons that Royal Caribbean responds to victims with honor and compassion.

A. We take very seriously our duty to reports alleged crimes to law enforcement agencies. However, we are not a law enforcement agency and do not have the technical expertise of a crime laboratory. For these reasons it is our policy to report all allegations of crime to the FBI and other appropriate law enforcement agencies for their professional investigation. We cooperate fully with all law enforcement agencies, giving them unrestricted access to our ships, guests and crew members, and allowing them to sail with us as they continue any onboard investigation. In fact, our Senior Vice President of Global Security is a former senior official with the FBI, which further assists us in interacting with various law enforcement authorities.

Our approach has always been to provide full access to all information to the FBI and other investigating law enforcement agencies. We then work in coordination with the involved law enforcement agencies to determine what information should be released to a person making an allegation, the accused, and their lawyers.

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Michael J. Sheehan  
[REDACTED]


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Transcript of Senate testimony June 18, 2010

Mr. Carver: Okay. Let's look at current procedures if a woman is raped on a ship. In my documents, we say -- the cruise lines say, "We do not investigate crimes. We're not equipped to do so." They've put that in writing. "We call the FBI." Well, there's a television show that was done, broadcast last December -- or last November, by Canadian network W5. It's their equivalent of "60 Minutes." It's on our Web site. And Mr. Gary Bald, who is former FBI, was interviewed in that particular show.

So, a woman comes to him -- and they say, "What happens if a woman comes to you and is -- says she's been raped?" Well, to me, the proper answer would be, "We seal the room, we give the woman comfort, and we call the FBI." That's what our statement is. But, in fact, I'm going to read to you from the testimony, which you can see on live television. He says, "The first thing we do is determine, Was it a valid claim? Some women claim they were sexually assaulted and they were not. Others claim they were sexually assaulted and there's a confusion of whether or not it was consented or a different consent. And then, there's a third category, potentially, when someone was sexually assaulted, where there's dispute as to whether or not they even had sexual relations." In other words, he is asking these questions of a woman that came in that was raped. He



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shouldn't be asking those questions. He should seal the room, give comfort to the individual, call the FBI in. Because the most important interrogation is the first one.

Senator Kerry: Who was asking those questions?

Mr. Carver: Gary Bald, chief of security for Royal Caribbean. And this was -- this is on television. It's on our Web site. So, in effect, he's working for risk management. He's going in there, trying to figure out,

"Well, is this really a claim?" instead of turning it over to the FBI; so that by the time the FBI gets there, several days later, this woman has been worked over by -

Senator Kerry: What would his qualifications be? What would --

Mr. Dale: Actually, that's a very good question. Mr. Bald is the former number-three-ranking FBI official, and is, today, head of corporate security, global security for Royal Caribbean.

Senator Kerry: Does he have -- as the head of corporate and -- security with respect to ships, what sort of powers does he have at sea under -- in that authority, in that position?

Mr. Dale: Well, he has -- under his staff, he has the corporate security officer on that ship, as well as the security staff supporting the chief security officer on that ship.

Senator Kerry: But, he's --

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Mr. Dale: And he's --

Senator Kerry: -- he's a corporate security officer, correct?

Mr. Dale: Mr. Bald, yes.


Senator Kerry: Right.

Mr. Dale: But, he's -

Senator Kerry: I'm just trying to understand the legalities here, and how one might set up a structure where the law, as it will be applied in a court, is, sort of, fully sequential, appropriately.

Mr. Dale: Right.

Senator Kerry: I'm not doubting his experience or doubting his qualifications, but if you don't have a codification, if you will, of a process, then he winds up -- inadvertently, perhaps -- but, he winds up being, really, the corporate representative, not the representative, neutrally, of the law as it would be applied, were that a police officer appropriately investigating in a local jurisdiction. So, I'm trying to understand exactly what his jurisdiction is.

A handwritten bracket on the right side of the page, spanning the length of Senator Kerry's paragraph. A vertical line with an arrowhead at the bottom points to the bracket.



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4 TRANSCRIPT  
5 W-FIVE CTV BROADCAST  
6 W-FIVE CRUISES PART FOUR

### A P P E A R A N C E S

2  
3  
4 MR. TOM CLARK  
MS. SANDI RINALDO  
5 MR. MICHAEL ERICKSON, ESQ.  
MR. RANDALL JAQUES  
6 MR. GARY BALD  
MS. LAURI DISHMAN  
7 MS. JAMIE DEXTER

We asked Bald what would happen if

11 a Canadian woman was raped on board one of his  
12 ships.

13 He said the first thing to do is  
14 *determine if it's a valid claim.*

15 MR. BALD: Some women claim that  
16 they were sexually assaulted and they were not.  
17 Others claim they were sexually assaulted, and it  
18 is a confusion whether or not they consented or  
19 different consent. And then there's a third  
20 category, potentially, where someone was sexually  
21 assaulted where it is in dispute as to whether or  
22 not they even had sexual relationships.

23 Those are three potential scenarios  
24 that we could encounter on board. Regardless of  
25 what the type of allegation we receive is, we  
1 approach them all the same way, all as if there  
2 was a sexual assault and it truly happened.

3 MR. CLARK: But that wasn't the way  
4 that Laurie Dishman remembers it.

5 MS. DISHMAN: The purser stood up  
6 and told me that it sounds as if you need to  
7 control your drinking.

8 MR. CLARK: *Or Jamie Decker on a*  
9 *Carnival ship.*

10 MS. DECKER: A big scary security  
11 guy comes in, he's the head of security, and he  
12 tells me like -- that he's -- he's the one that  
13 said I had a wild imagination.

14 MR. ERICKSON: It seems to me that  
15 most of the time they're looking for reasons to

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16 cast the victim in a bad light, either she  
17 consented to the incident in some way, or she was  
18 drinking alcohol and that's -- you know -- to them  
19 a moral crime. You know in cruise ships, alcohol  
20 -- alcohol is all over the place.

MR. CLARK: So why are the cruise  
22 lines so skeptical of these reports?  
23 Well, maybe it lies in the very  
24 definition of sexual assault. It's different  
25 things in different countries, but what is it on  
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1 the high seas?  
2 How do you define sexual assault?  
3 MR. BALD: Well, sexual assault is  
4 different things to different people. There's a  
5 big, big problem here in the semantics.

6 So if you're looking and comparing  
7 our definition for sexual assault with forcible  
8 rape--  
9 It's not clearly defined because  
10 it's different in every jurisdiction.  
11 It's numbers when you're trying to  
12 conglomerate things, you've got to have the right  
13 definition.  
14 MR. CLARK: It sounds almost like a  
15 Clinton master defense, it depends what it is.

Unable to get a precise answer on  
17 what defines a sexual assault, we found, at least,  
18 that we can establish who in Royal Caribbean's

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10 that these are the people you will have to depend  
11 on, the local police. In this case, the Royal  
12 Bahamian Constabulary.

13 Are you saying that there would be  
14 no doubt in their mind at all, no question in  
15 their mind that they had complete and utter  
16 jurisdiction?

17 MR. BALD: I think so. I think  
18 that's correct.

19 MR. ERICKSON: Did they really say  
20 that? That's ridiculous. That's -- that's just  
21 absolutely preposterous.

22 The supposition that if a crime  
23 happens to a -- let's just say a Canadian citizen  
24 -- in a cruise ship and the next port of call is  
25 the Bahamas or Jamaica and it happens on  
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1 international waters that the police at the next  
2 port of call is going to take jurisdiction, that's  
3 -- that's ridiculous. It's just preposterous.

4 MR. CLARK: Even former security  
5 officer, Randall Jaques, agrees.

6 You invite the local police on.

7 MR. JAQUES: You can invite them  
8 all you want, but I can tell you right now they  
9 probably won't respond. They won't take on  
10 responsibility because they know if it occurs in  
11 international waters, which washes their hands of  
12 it, and they don't have to have any involvement in  
13 it, which is -- which is better for them.

14 MR. CLARK: And even if the local  
15 police decides to take the case, will there be  
16 anything to investigate?

17 Randall Jaques alleges that two  
18 things often happen after a crime occurs on a  
19 cruise ship. First, the crime scene is either  
20 cleaned up or --

21 MR. JAQUES: The crime scene is  
22 contaminated from the beginning because already  
23 probably three people have been in that cabin  
24 where the sexual assault occurred.

25 It's not like being in America or  
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1 Canada or the UK and calling for the police in  
2 Baltimore, Maryland because your wife was raped in  
3 a Hyatt Regency. It's not like that.

4 MR. CLARK: And secondly, the  
5 offender is often packed off home long before the

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6 police arrive.

7 MR. JAQUES: Typically what happens  
8 with a lot of these crew members is that they're  
9 immediately debarked at the next port, lock, stock  
10 and barrel, and they will be flown back to their  
11 country of origin. You get rid of the perpetrator  
12 and the problem right there.

13 MR. CLARK: I'm wondering if you  
14 can respond to these allegations because on the  
15 surface they sound pretty serious if you're  
16 cleaning up the crime scenes so that the police  
17 have nothing do go on. Why?

18 MR. BALD: There are any number of  
19 dismissed crew members who might have other  
20 motivations in portraying things in other ways. I  
21 can't answer those questions.

MR. CLARK: Bald maintains that  
23 Royal Caribbean preserves all crime scenes for  
24 authorities.

25 Half a million Canadians go on  
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1 cruises every year as do nine million Americans.  
2 Fortunately, only a small percentage will be  
3 sexually assaulted, and yet that could still  
4 amount to several hundred people who are being  
5 victimized.

6 Do you feel that the problem is  
7 under control?

8 MR. ERICKSON: From the standpoint  
9 of numbers, if you're talking about out of  
10 control, I think you have to have a frame of  
11 reference.

12 Our sexual assault rate is  
13 significantly lower than the shore side.

14 MR. CLARK: Well, remember, not  
15 according to evidence presented to Congress where  
16 the rate of sexual assault on board ships was  
17 almost 50 percent higher than on shore. And  
18 besides --

19 MR. ERICKSON: When I hear these  
20 statistics from the cruise industry that, you  
21 know, the cruise line rate of crime is much less,  
22 they say, than the comparable US town or  
23 municipality, show me a typical US town or  
24 municipality of comparable size where most of the  
25 crime is perpetrated by the city employees.

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1 MR. CLARK: Employees who know that  
2 the odds are in their favor that they'll get away  
3 with it and there's virtually nothing you can do.