

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

NORWEGIAN CRUISE LINE HOLDINGS LTD., a Bermuda Company; **NCL (BAHAMAS) LTD.**, d/b/a NORWEGIAN CRUISE LINE, a Bermuda Company; **SEVEN SEAS CRUISES S. DE R.L.**, d/b/a REGENT SEVEN SEAS CRUISES, a Panama Limited Liability Company; **OCEANIA CRUISES S. DE R.L.**, d/b/a OCEANIA CRUISES, a Panama Limited Liability Company;

Plaintiffs,

v.

SCOTT A. RIVKEES, M.D., State Surgeon General and Head of the Florida Department of Health, in his official capacity;

Defendant.

Case No. 1:21-cv-22492-KMW

**PLAINTIFFS' REPLY IN SUPPORT OF THEIR EXPEDITED MOTION FOR A
PRELIMINARY INJUNCTION**

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Plaintiffs Norwegian Cruise Line Holdings Ltd., NCL (Bahamas) Ltd., Seven Seas Cruises S. de R.L., and Oceania Cruises S. de R.L. (together, “NCLH”) respectfully reply in support of a preliminary injunction. Defendant’s Opposition as filed July 27, Dkt. 32 (“Opp.”), is devoid of substance in crucial respects. Indeed, while attaching declarations from (i) an associate representing Defendant, who catalogues various documents, and (ii) a subordinate of Defendant, who limits himself to reporting certain administrative filings, the Opposition includes *nothing from Defendant himself*. That omission speaks volumes: Per his official website, “Dr. Scott A. Rivkees, Florida’s Surgeon General, is focused on protecting, promoting and improving the health of everyone who calls Florida home,” much as NCLH is. Defendant is also on record advocating vaccination as, *e.g.*, “our ray of hope,” and “our path forward out of the pandemic.” Second Decl. of Olga Vieira (“2d Vieira Decl.”) Ex. 1. NCLH applauds Defendant’s position on these points, while struggling to comprehend how he can be opposing NCLH here.

Notably, neither Defendant nor his attorneys offer a scintilla of evidence refuting undisputed testimony from NCLH’s distinguished declarants—its CEO, a public-health expert, and a professor of business development and branding—establishing exactly why vaccine documentation is essential for NCLH to ensure that all of its passengers are in fact vaccinated, and why 100% vaccination is in turn essential to enable NCLH to resume sailing safely and soundly as it is scheduled to do starting August 15. Dkt. 3-1 (“Del Rio Decl.”) ¶¶ 25–35; Dkt. 3-3 (“Laitamaki Decl.”) ¶¶ 8, 12–17; Dkt. 3-4 (“Ostroff Decl.”) ¶¶ 16–20; Second Decl. of Dr. Stephen Ostroff (“2d Ostroff Decl.”) ¶ 4. This Defendant lacks any factual basis or even a coherent argument for why NCLH should be *prohibited* under § 381.00316 (the “Ban”) from following its own best lights and the uncontroverted consensus of leading experts on how best to protect public health and safety on its vessels, in Florida and beyond, as cruise operations resume. The stakes here are stark and the case for a preliminary injunction is one-sided. Once this Court finds that NCLH is likely to succeed on one or more grounds, it follows inexorably that the Court should grant as-applied relief enabling NCLH to sail from Miami as planned, safely and conscientiously.

ARGUMENT

I. NCLH IS LIKELY TO PREVAIL ON THE MERITS

An overarching question cuts across NCLH’s lines of constitutional challenge: Do the justifications for § 381.00316 counterbalance its incursions on truthful expression and the free flow of commerce as federally regulated? Florida’s effort to advance an affirmative answer to

that question is woeful. Whatever resonance Florida's claimed justifications may have with select audiences, its justifications cannot withstand scrutiny in any court of law, let alone one applying heightened constitutional scrutiny. Because Florida's chosen means lack any fair relation to its claimed ends, the Ban flunks any applicable standard of judicial review.

While skimpy on specifics, the Opposition defends § 381.00316 as “protecting ... medical privacy” and “avoiding discrimination.” Opp. at 17; *see id.* at 4 & n.3. But those proffered justifications do not withstand a moment's scrutiny. Throwing around terms “privacy” and “discrimination” does not translate to creditable justifications. By Florida's warped reasoning, a person ***actually diagnosed with COVID*** might invoke the same “privacy” and “anti-discrimination” concerns. Florida does not dispute that (a) unvaccinated persons pose greater COVID risks; (b) documentation is the only reliable means of verification; and (c) the cruise setting poses unique challenges that place this documentation at a premium. Ostroff Decl. ¶¶ 18–20; Del Rio Decl ¶¶ 13–20, 28–29. Such information is no more private and no less pertinent than one's date of birth is when purchasing alcohol or one's home address is when purchasing a firearm. Confirming as much, the Eleventh Circuit just ordered: “Individuals may be requested to provide proof of their vaccination status.” Chief Judge William H. Pryor, *General Order No. 50* (11th Cir. July 28, 2021). And it is risible for Florida to claim it is protecting “families with children” from discrimination, Opp. at 4, when it ***permits*** cruise lines to ***exclude children altogether***, as some cruise lines do. 2d Vieira Decl. Ex. 2.

Indeed, Florida cannot seriously believe its own purported justifications. Its Ban does nothing to protect passengers against disclosing their COVID-19 vaccination status; NCLH and other cruise lines are free to demand that information and otherwise to deny entry, short of demanding telltale documentation. Government cannot artificially cramp communication in this fashion about subject matter that is concededly fair game for discussion. *See Sorrell v. IMS Health, Inc.*, 564 U.S. 552, 573 (2011). Even as to documentation, cruise lines can *still* demand *sundry* medical documentation including *vaccine* documentation; the only thing off limits is documentation of ***COVID-19*** vaccinations. Tellingly, ***Florida itself*** demands ***other*** kinds of vaccine documentation, particularly for schools.¹ Even as to ***COVID-19 vaccine documentation***,

¹ See Immunization Guidelines, Fla. Dep't of Health, at 3 (Mar. 2013), http://www.floridahealth.gov/programs-and-services/immunization/children-and-adolescents/_documents/school-guide.pdf; *see also* House Session, Fla. House of Rep., at 2:17:03–2:17:53

Florida does *not* prohibit NCLH or anyone else from demanding that *all employees* supply it. There is no explanation whatsoever for this *under*-inclusiveness. Nor does Florida begin to explain the gross *over*-inclusiveness of the Ban: No reason is discernible as to why any concern about unvaccinated persons being denied access “to the grocery store,” Opp. at 4 n.3, extends to week-long luxury cruises, or why such a sweeping Ban should follow absent any finding that any customer, in any industry, has ever lacked adequate options. *See Wollschlaeger v. Governor of Fla.*, 848 F.3d 1293, 1315 (11th Cir. 2017) (en banc).

Further discrediting itself, Florida condones the approaches of “other major cruise lines,” Opp. at 20, 6, 10, that are very much “discriminating” (to use Florida’s terminology) against unvaccinated passengers in ways and degrees that are far more problematic than anything NCLH proposes. Florida finds no fault with major cruise lines’ ongoing “two class system” whereby passengers who are unvaccinated or refuse to disclose their status are “segregated” and subjected to disfavored treatment, for which they must pay more, 2d Vieira Decl. Ex. 3, and are treated as “second-class citizens,” *id.* Ex. 4.² Absent the requested relief, that is the only alternative Norwegian has short of abandoning its Florida operations altogether. Del Rio Decl. ¶ 31. Defendant offers no reasoned argument as to why that dismal result would better serve Florida’s purported interests or the passengers it purportedly wants to protect.

At the end of the day, what this Ban really does is score political points favoring one side of a polemic, at the expense of public health and free and honest conveyance of vital information. Its misshapen gerrymandering otherwise defies explanation. If this Ban ultimately protects anyone, it is the passenger who will be asked about vaccination status and hopes to *lie* about it—that passenger, and only that passenger, will benefit from this Ban against requiring the documentation that shines unique, truthful light on the life-or-death question of vaccination status. But there is no legitimate interest in providing statutory license for those who oppose vaccination to *lie* about their vaccination status—and there certainly is no interest substantial enough to justify

(April 28, 2021), <https://www.myfloridahouse.gov/VideoPlayer.aspx?eventID=7285> (Rep. Grieco) (objecting because, *e.g.*, “we have vaccine passports in Florida right now. It’s called: that’s how your kid gets to go to school.”); Senate Session, Fla. Senate, at 6:19:56–6:20:20 (April 29, 2021), https://www.flsenate.gov/media/VideoPlayer?EventID=1_3wpkrnbb-202104291000&Redirect=true (Sen. Polsky) (similar).

² Some cruise lines require unvaccinated guests to wear masks and maintain social distance when dining or recreating, *id.* Ex. 5, while others require unvaccinated guests to pay for additional testing and purchase travel insurance—proof of which is required to board, *id.* Ex. 6.

conflict with federal regulation; intrusion upon open, truthful communication; or profound burdens upon the flow of interstate and international commerce from port to port. Each of the ensuing counts therefore provides ample reason why NCLH is likely to prevail here.

A. Florida's Ban Is Preempted.

To overcome a straightforward preemption problem, Defendant leans on the Middle District of Florida, arguing the CSO “cannot preempt Florida’s law because the CDC is enjoined from enforcing it in the State.” Opp. at 7. But Defendant does not deny that the preliminary injunction reflects only a “*preliminary* assessment of *likelihood* of success [that] is not precedent” and does not “take[] Congress’s statute or CDC’s regulations off the books.” Dkt. 3 (“Mot.”) at 10 (citing *Univ. of Tex. v. Camenisch*, 451 U.S. 390, 395 (1981); *JB Weld Co. v. Gorilla Glue Co.*, 978 F.3d 778, 794 (11th Cir. 2020)). Nor does Defendant deny that “NCLH vessels are scheduled to travel to U.S. territories, such as Puerto Rico and the U.S. Virgin Islands ... where they would be subject to the Conditional Sailing Order ... and beyond the scope of Judge Merryday’s injunction,” which is confined to Florida. *Id.* at 16. Thus, even if the preliminary injunction were to be finally upheld (which it hasn’t been), NCLH *still* faces the same conflict between Florida’s Ban and legal compliance in jurisdictions where federal law remains operative.

Most of Defendant’s remaining arguments are predicated on invalidating CDC’s framework, which, with all due respect for Judge Merryday, should not be taken as likely, for reasons CDC has submitted to the Middle District and the Eleventh Circuit and need not be belabored here. *See* Defs.’ Mot. for a Stay Pending Appeal, *Florida v. Becerra*, No. 21-12243, at 5 (11th Cir. July 7, 2021) (“CDC Stay Motion”); Defs.’ Opp’n to Mot. for Prelim. Inj., Dkt. 31, *Florida v. Becerra*, No. 8:21-cv-839-SDM-AAS, at 10, 30 (M.D. Fla. May 5, 2021).³

To the extent that CDC’s larger framework is valid, Defendant’s preemption arguments crumble. Although Defendant claims that “neither the Technical Instructions nor the Operations Manual preempt Florida law,” Opp. at 7, he whistles past the statutory and regulatory provisions that preempt conflicting state law. *See* 42 U.S.C. § 264(e); 85 Fed. Reg. 70153-01, 70158 (Nov. 4, 2020). Nor does Defendant’s other nit-picking disable CDC’s on-point, operative guidance.

³ As for the Eleventh Circuit’s withholding of a stay, it rests merely on CDC’s “fail[ure] to demonstrate an entitlement to a stay pending appeal,” which should not be mistaken for a determination that Florida is likely to prevail on the ultimate merits, especially given that (i) CDC’s regulations remain unaffected outside of Florida and (ii) all cruise lines have indicated they will be continuing to comply voluntarily with CDC’s “recommendations” even in Florida.

Defendant argues otherwise, but CDC has authority under the CSO to permit highly vaccinated voyages in lieu of simulated voyages: The CSO authorizes CDC to “issue additional requirements . . . relating to a cruise ship operator’s processes and procedures for conducting and evaluating a simulated voyage,” and affording operators an option for achieving the objectives of simulated voyages without resorting to same plainly “relat[es]” thereto. 85 Fed. Reg. at 70160 (emphasis added). Nor is the absence of notice-and-comment rulemaking, publication in the Federal Register, or mathematical precision problematic here. Exigencies and developments surrounding COVID-19 (including the advent of vaccines) have been fast-evolving; only by reacting quickly could CDC keep pace while taking due account, consistent with its wide, expert discretion. *F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009); *Inv. Co. Inst. v. Commodity Futures Trading Comm’n*, 720 F.3d 370, 381 (D.C. Cir. 2013). Moreover, agencies need not use notice-and-comment rulemaking or publish in the Federal Register to preempt state law. *See, e.g., Elizabeth Blackwell Health Ctr. for Women v. Knoll*, 61 F.3d 170, 182–83 (3d Cir. 1995) (HHS interpretive rule); *Feikema v. Texaco, Inc.*, 16 F.3d 1408, 1418 (4th Cir. 1994) (EPA consent order); *Gen. Motors Corp. v. Abrams*, 897 F.2d 34, 39 (2d Cir. 1990) (FTC consent order).

Most fundamentally, Defendant cannot gainsay the conflict between the Ban and CDC regulations specifically as applied to NCLH. He claims there is “no indication” that highly-vaccinated voyages are crucial to CDC’s “full purposes” or “that it is even important to the CDC that cruise lines have this option.” Opp. at 9. To the contrary, however, the only other option, simulated voyages, is one that Florida describes as “a prohibition in practice” that “set[s] the business up for certain failure.” Fla.’s Resp., No. 21-12243, at 9 (11th Cir. July 12, 2021). Moreover, CDC was expressly preoccupied with the lack of a vaccine in extending the No Sail Order as well as in the CSO itself. 85 Fed. Reg. 44085-01, 44085–86 (July 21, 2020); 85 Fed. Reg. 62732-01, 62732 (Oct. 5, 2020); 85 Fed. Reg. at 70154. When vaccines arrived, CDC relaxed numerous restrictions for highly-vaccinated voyages, confirming that these other measures were in the nature of interim stopgaps. *See* Decl. of Olga Vieira Ex. 2 at 9, Ex. 3 at 5, 9. Unlike in *Williamson v. Mazda Motor of Am., Inc.*, 562 U.S. 323, 332–35 (2011), therefore, CDC has indicated that the vaccination option is important, and, if anything, preferred. Certainly there is no dispute that CDC afforded the highly-vaccinated option that NCLH has elected, nor is there dispute that vaccine documentation is the only reliable mode of pursuing that option, and the mode on which NCLH has predicated its federal certification. Del Rio Decl. ¶¶ 20, 28–29; Ostroff

Decl. ¶¶ 17–18. That suffices to trigger preemption under settled law—even as Defendant “reserve[s] the right to contest its validity before the Supreme Court.” Opp. at 9 n.8.

Last, far from “disclaim[ing]” preemption on NCLH’s facts, *id.* at 10, CDC in the wake of this suit agreed that Florida “has undermined the cruise industry’s ability to take advantage of the flexibility that the CDC provides for vaccinated passengers and highly vaccinated cruises.” Reply, *Florida v. Becerra*, No. 21-12243, at 4–5 (11th Cir. July 13, 2021); *see* CDC Stay Motion at 14 (“Florida has actively impeded the cruise industry’s ability to conduct safe operations”).

B. Florida’s Ban Violates The First Amendment.

Because Florida is specially restricting the exchange of truthful information about a matter of public concern (indeed, life-or-death concern), there should be no way around First Amendment scrutiny. Defendant nonetheless tries to dodge such scrutiny by arguing that Florida’s Ban “regulates conduct, not speech,” on the theory that it “simply prohibits businesses from *conditioning service*” on the provision of documentation containing the verboten content. Opp. at 15–16. But “[s]aying that restrictions on writing and speaking are merely incidental to speech is like saying that limitations on walking and running are merely incidental to ambulation,” and the Eleventh Circuit has agreed “with the Third Circuit’s assessment that the ‘enterprise of labeling certain verbal or written communications “speech” and others “conduct” is unprincipled and susceptible to manipulation.’” *Wollschlaeger*, 848 F.3d at 1308 (quoting *King v. Governor of N.J.*, 767 F.3d 216, 228 (3d Cir. 2014)).

By Defendant’s account, government would have carte blanche to tell private entities what information they may agree to exchange as part of their terms of demonstrations, associations and transactions. Government could just as easily outlaw a requirement that attendees provide proof of their membership in the X, Y, or Z party; that babysitters provide references before being hired; that college applicants supply their high-school transcripts; or that produce suppliers certify specified quality control. Indeed, Defendant would afford the government open season to ban sale of *books* with disfavored content—by couching such a ban as regulating simply “conditioning” payment upon exchange of the offending documentation. Whatever justification government might offer for curbing such open and truthful exchanges, there should be no doubting that government in such cases at least answers to the First Amendment. That recognition is itself fatal to the defense, given Florida’s inability to withstand any form of First Amendment scrutiny.

Florida's ban intrudes upon NCLH's right to communicate truthfully with its customers. *See Sorrell*, 564 U.S. at 564; *Wollschlaeger*, 848 F.3d at 1313. Beyond *Sorrell* and *Wollschlaeger*, the Supreme Court's decision in *Expressions Hair Design v. Schneiderman*, 137 S. Ct. 1144 (2017), is instructive. That statute banned sellers from charging a "surcharge" for using a credit card instead of cash, even as sellers could offer customers a cash "discount." *Id.* at 1147. Although the statute addressed pricing, it triggered First Amendment scrutiny because it regulated "how sellers may communicate their prices"—*i.e.*, how merchants could communicate a lawful requirement (the price) for obtaining a service (there, a haircut). *Id.* at 1151.

What was true in *Expressions Hair Design* is true here. Because Florida's ban does *not* prohibit NCLH from conditioning service on vaccination, cases addressing antidiscrimination laws are inapposite. *See* Opp. at 15–16. This Ban is triggered by how NCLH *communicates* with its customers and *verifies* their compliance with its lawful vaccination requirement; oral exchange remains fine while written documentation is forbidden. Indeed, Defendant stresses that NCLH is free to "*discuss*" COVID-19 vaccination status with its customers and "*request*" vaccination documentation. *Id.* at 16. That brings to a sharp point the First Amendment problem: What the government is doing here—quite astonishingly—is outlawing agreed terms for exchanging truthful information on a subject of legitimate inquiry. This law impinges on how NCLH formulates and conveys its vaccination requirement. *See also Greater Phila. Chamber of Commerce v. City of Phila.*, 949 F.3d 116, 136 (3d Cir. 2020) (ordinance banning employers from inquiring into wage history "clearly regulates speech because it prevents employers from asking potential applicants specific questions"). It also impinges on how NCLH receives and verifies answers to its inquiry. *See also Lamont v. Postmaster General*, 381 U.S. 301, 302, 305–07 (1965) (federal law restricting delivery of "communist political propaganda" from abroad, absent recipient's express approval, was "at war with the uninhibited, robust, and wide-open debate and discussion that are contemplated by the First Amendment").

Once the First Amendment is triggered, strict scrutiny applies because Florida's ban is content-based, Mot. at 12–14, thereby warranting scrutiny more searching than that applicable to traditional regulation of commercial speech. Opp. at 16–17. The regulated exchange here is about health and safety. And the way it is being regulated betrays that government is targeting expression of a disfavored political stance—of like-minded people who stand behind vaccination for all in the context of a raging pandemic and debate about how to handle it. That Florida takes

a *sui generis* approach to proof of COVID-19 vaccination—different from all other vaccination information, and all other medical information—telegraphs politically-driven, viewpoint-based discrimination. Mot. at 13–14 n.2; *Sorrell*, 564 U.S. at 565. Especially in light of the Supreme Court’s recent decisions in *Barr v. American Association of Political Consultants, Inc.*, 140 S. Ct. 2335 (2020), and *Reed v. Town of Gilbert*, 576 U.S. 155 (2015), strict scrutiny should be inescapable and fatal. See also *Otto v. City of Boca Raton*, 981 F.3d 854, 861 (11th Cir. 2020); *Int’l Outdoor v. City of Troy*, 974 F.3d 690, 703 (6th Cir. 2020).

Even assuming that this is traditional regulation of commercial speech, however, Florida cannot come close to justifying its interruption of “the free flow of commercial information.” *Va. State Bd. of Pharmacy v. Va. Citizens Consumer Council, Inc.*, 425 U.S. 748, 764 (1976). “Over the last 40 years, the Supreme Court has extended an ever-increasing level of First Amendment protection to commercial speech. Indeed, it is difficult to find a Supreme Court decision upholding governmental suppression of truthful commercial speech in the last 25 years.” Martin H. Redish, *Commercial Speech and the Values of Free Expression*, Cato Institute, at 2 (2017). Under intermediate scrutiny, the Ban neither “serve[s] a substantial interest,” nor is “narrowly drawn.” *Matal v. Tam*, 137 S. Ct. 1744, 1764 (2017) (quotations omitted). See *supra* at 1-4.

Even if Florida’s Ban could be thought to regulate only conduct, the relevant conduct is expressive so as to warrant First Amendment scrutiny. “[A] wide array of conduct ... can qualify as expressive,” so long as the conduct was “‘intended to be communicative’ and, ‘in context, would reasonably be understood by the viewer to be communicative.’” *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Comm’n*, 138 S. Ct. 1719, 1741–42 (2018) (Thomas, J., concurring in part and concurring in the judgment) (quotations omitted); see *Texas v. Johnson*, 491 U.S. 397, 406 (1989). In this case, NCLH is concerned not only with protecting the health and safety of its employees and clientele, but also with the *message* that a vaccination verification requirement conveys to customers considering whether to buy cruise tickets: This cruise is safe and everyone on board is doing their part to ensure that. By targeting COVID-19 vaccination documentation, Florida has targeted that message for disfavored treatment and has taken sides in a political dispute over vaccination requirements, thereby perpetrating the First Amendment violation already noted.

C. Florida’s Ban Violates The Dormant Commerce Clause.

Defendant provides virtually no defense of the Ban under the settled law of the Dormant Commerce Clause, requiring a court to weigh a law’s burden on interstate commerce against its

benefits. While imposing massive, demonstrated burdens on interstate and international commerce, the Ban serves no appreciable purpose that might withstand the requisite balancing.

Cruises inherently move through interstate and international commerce, as Defendant concedes. Florida's Ban imposes daunting burdens on such commerce. Unrebutted evidence shows that inability to verify passengers' vaccination status will force cruises and passengers either to re-route around Florida or else go through tortured, costly, time-consuming, damaging contortions in order to go to or from Florida relative to other ports, none of which have any such Ban and many of which require proof of vaccinations. Mot. at 16; Del Rio Decl. ¶¶ 14–19. Such burdens weigh in the analysis. *E.g.*, *Raymond Motor Transp., Inc. v. Rice*, 434 U.S. 429, 438 (1978); *Bibb v. Navajo Freight Lines*, 359 U.S. 520, 528 (1959); *Pike v. Bruce Church*, 397 U.S. 137, 144 (1970); *C & A Carbone v. Town of Clarkstown*, 511 U.S. 383, 389 (1994). What is more, conflict between the Ban and the law of other jurisdictions, including those still bound by the CSO, is especially offensive to the Dormant Commerce Clause. Mot. at 16; Del Rio Decl. ¶ 18; *see C & A Carbone*, 511 U.S. at 407 (O'Connor, J., concurring in the judgment) (citing *S. Pac. Co. v. Ariz.*, 325 U.S. 761, 772 (1945); *Bibb*, 359 U.S. at 528). Last, the governing federal statute in this area, preemptive or not, further commends invalidation. James M. McGoldrick, Jr., *The Dormant Commerce Clause: The Endgame-from Southern Pacific to Tennessee Wine & Spirits-1945 to 2019*, 40 Pace L. Rev. 44, 79 (2020) (citing *S. Pac. Co.*, 325 U.S. at 769).

The question then becomes whether the established burden “clearly exceeds the local benefits” of the Ban, *Fla. Transp. Servs., Inc. v. Miami-Dade Cty.*, 703 F.3d 1230, 1257 (11th Cir. 2012), and is properly tailored. *See Yamaha Motor Corp. v. Jim's Motorcycle, Inc.*, 401 F.3d 560, 569 (4th Cir. 2005); *cf. Cloverland-Green Spring Dairies, Inc. v. Pa. Milk Mktg. Bd.*, 298 F.3d 201, 216 (3d Cir. 2002). Again, any such benefits are illusory while the Ban's sweep and intrusions are breathtaking. The Ban is therefore unconstitutional as applied to NCLH. *See Raymond*, 434 U.S. at 445; *Pike*, 397 U.S. at 142, 146; *Island Silver & Spice, Inc. v. Islamorada*, 475 F. Supp. 2d 1281, 1292–93 (S.D. Fla. 2007), *aff'd*, 542 F.3d 844 (11th Cir. 2008).

II. ABSENT AN INJUNCTION, NCLH WILL SUFFER IRREPARABLE HARM

Defendant lacks any substantive argument against irreparable harm, which we have substantiated through uncontroverted declarations. He concedes that any First Amendment injury is by definition irreparable. He dismisses NCLH's impending injury as “[s]elf-inflicted,”

Opp. at 18, but distorts the term beyond recognition.⁴ NCLH is doing its level best to resume safe and lawful operations for the benefit of all it serves, but Florida (and only Florida) has made that impossible. If a preliminary injunction were unavailable here, it is unclear how one would ever be available to protect business operations—all of which are volitional and directed by the business its “self”—against injurious governmental intrusion. Suffice it to note that Defendant denies neither that NCLH’s brand and passenger base call for its instant approach to verifying vaccination status, nor that any deviation caused by the Ban would irreparably damage NCLH’s goodwill, reputation and overall business. Del Rio Decl. ¶¶ 25–35; Laitamaki Decl. ¶¶ 8, 12–17. Last and not least, Defendant does not deny that in our current circumstances—where vaccinations are readily available while new and deadly COVID threats are emerging in Florida and around the world—yielding to the Ban would pose gratuitous threats to human health and life, which can never thereafter be repaired. Ostroff Decl. ¶¶ 18–20; 2d Ostroff Decl. ¶¶ 4–5.

III. THE BALANCE OF EQUITIES AND PUBLIC INTEREST WEIGH HEAVILY IN FAVOR OF ENJOINING FLORIDA’S BAN

Defendant is equally unpersuasive in suggesting that the equities and public interest somehow favor him here. They don’t. Again, Defendant himself is on record promoting the public importance of *vaccination*—the *opposite* of enforcing a prohibition that undercuts NCLH’s efforts to ensure vaccination. Likewise, Florida is on record advocating (successfully) the importance of cruise lines including NCLH resuming safe, productive operations—so as to overcome the claimed sovereign interests of the United States, no less. And Defendant offers nothing to deny the dilemma NCLH now demonstrably confronts: Either NCLH cannot sail from Florida, which hurts Florida, its citizenry, and its economy (as Florida has elsewhere acknowledged and NCLH has here proved), or else NCLH would sail in ways that are worse for its passengers and crew, dangerous for other jurisdictions, and anathema to public health. Those are the only possible outcomes unless this Court grants an injunction, and the interests of countless stakeholders as well as the general public align mightily against them. This Court would protect everyone and harm no one by granting a preliminary injunction that simply enables these four Plaintiffs to resume sailing in a way that they have determined to be safest and best for all aboard.

CONCLUSION

For the foregoing reasons, NCLH respectfully requests a preliminary injunction.

⁴ If anything is “self-inflicted,” it is Florida’s ever-worsening COVID crisis, during which Florida continues to outlaw (not promote) proper safeguards. 2d Ostroff Decl. ¶¶ 4–5.

DATED: July 30, 2021

Respectfully submitted,

QUINN EMANUEL URQUHART & SULLIVAN LLP

By /s/ John F. O'Sullivan

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Attorneys for Plaintiffs Norwegian Cruise Line Holdings Ltd., NCL (Bahamas) Ltd., Seven Seas Cruises S. de R.L., and Oceania Cruises S. de R.L.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of July 2021, the foregoing document was electronically filed with the Clerk of Court using CM/ECF. I also certify that the foregoing document is being served this day on the party identified below, either via transmission of Notice of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronic Notices of Electronic Filing.

By: /s/ John F. O'Sullivan
John F. O'Sullivan
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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

NORWEGIAN CRUISE LINE HOLDINGS LTD.; NCL (BAHAMAS) LTD., d/b/a NORWEGIAN CRUISE LINE; SEVEN SEAS CRUISES S. DE R.L., d/b/a REGENT SEVEN SEAS CRUISES; OCEANIA CRUISES S. DE R.L., d/b/a OCEANIA CRUISES;

Plaintiffs,

v.

SCOTT A. RIVKEES, M.D., State Surgeon
General and Head of the Florida Department of
Health, in his official capacity;

Defendant.

Case No. 1:21-cv-22492-KMW

SECOND DECLARATION OF OLGA VIEIRA

I, Olga Vieira, do hereby depose and state:

1. I am of legal age and I make this declaration on the basis of my personal and professional knowledge and experience as well as publicly available information.

2. I am a partner at the law firm of Quinn Emanuel Urquhart & Sullivan LLP and counsel to Plaintiffs Norwegian Cruise Line Holdings Ltd., NCL (Bahamas) Ltd., Seven Seas Cruises S. de R.L., and Oceania Cruises S. de R.L. in the above-captioned matter.

3. Attached hereto as Exhibit 1 is a true and correct PDF copy of David Fleshler and Cindy Krischer Goodman, *Florida Surgeon General Promises Improvements, But Long Waits, For COVID Vaccine Distribution*, South Florida Sun Sentinel (Jan. 13, 2021), <https://www.sun-sentinel.com/coronavirus/fl-ne-florida-covid-surgeon-general-rivkees-20210114-qa7ydtfkb5avhl3glw5s44xbme-story.html>.

4. Attached hereto as Exhibit 2 is a true and correct PDF copy of Ben Souza, *Virgin's First Adults Only Cruise Ship Arrives in Miami*, Cruise Fever (Mar. 7, 2020), <https://cruisefever.net/virgins-first-adults-only-cruise-ship-arrives-in-miami>.

5. Attached hereto as Exhibit 3 is a true and correct PDF copy of Hannah Sampson, *The Newest Status on Cruise Ships: Being Vaccinated*, Washington Post (June 30, 2021),

<https://www.washingtonpost.com/travel/2021/06/30/cruise-class-vaccinated-unvaccinated-florida/>.


6. Attached hereto as Exhibit 4 is a true and correct PDF copy of Fran Golden, *On Cruises that Allow Them the Unvaccinated are Second Class Citizens*, Bloomberg (July 7, 2021), <https://www.bloomberg.com/news/articles/2021-07-07/on-cruises-that-allow-them-the-unvaccinated-are-second-class-citizens>.

7. Attached hereto as Exhibit 5 is a true and correct PDF copy of *Frequently Asked Questions*, Princess Cruises, <https://www.princess.com/plan/cruise-with-confidence/cruise-health/frequently-asked-questions>.

8. Attached hereto as Exhibit 6 is a true and correct PDF copy of *COVID-19 Guest Protocols*, Carnival, <https://www.carnival.com/legal/covid-19-legal-notice/covid-19-guest-protocols>.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 30, 2021



OLGA VIEIRA

Exhibit 1



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CORONAVIRUS

Florida surgeon general promises improvements, but long waits, for COVID vaccine distribution

By DAVID FLEHLER and CINDY KRISCHER GOODMAN
SOUTH FLORIDA SUN SENTINEL | JAN 13, 2021



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SECTIONS

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Faced with complaints about Florida's maddening system for distributing COVID vaccines, Florida Surgeon General Dr. Scott Rivkees on Wednesday promised improvements but said many Floridians will be in for a long wait.

In his first testimony in the state Legislature since the beginning of the COVID crisis, Rivkees and his top deputy addressed the vaccine shortage, how soon teachers will get it and whether tourists are taking advantage of Florida's loose laws.

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They avoided direct answers to some questions, such as how long it will take to vaccinate seniors and why teachers can't be moved up on the list. And they heard the frustration of senators who have been fielding calls from constituents angry about the crashed websites, long lines and perceptions of line-jumping by the well-connected, such as members of hospital boards.

"Look at the reports showing well-connected people and donors have been able to skip the line," said Sen. Shevrin Jones, a south Broward Democrat, at a hearing of the Senate Committee on Health Policy. "If we would have put a plan together, couldn't we have avoided that?"

[RELATED: COVID-19 vaccine could soon be offered to seniors at Palm Beach County Publix pharmacies »](#)

Sen. Aaron Bean, R-Fernadina Beach, described "great frustration in the entire state" over vaccine distribution and criticized a lack of communication from the health department.

"We know there is a shortage," he said. "People can handle that if it is communicated. There hasn't been any communication. People are frustrated. No one likes a skipper. If there is an orderly process and it's communicated well, I can wait my turn. When you leave here, take away that there is great frustration with the lack of information and rules that appear as if they are not followed."

ADVERTISING



The state is currently experiencing a race between vaccination efforts and a resurgence of the virus.

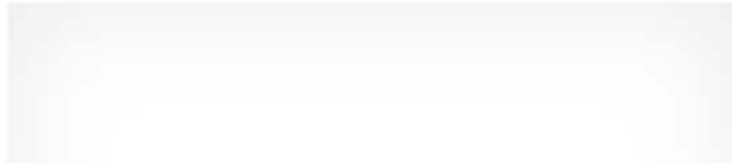
Florida reported 13,990 new cases Wednesday, bringing the total to more than 1.5 million. The death toll is nearly 24,000.

Meanwhile, vaccination efforts continue at hospitals, assisted-living facilities and other sites. Under an executive order by Gov. Ron DeSantis, anyone 65 or older can get a shot, and in Florida that means about 4.5 million people.

[RELATED: Frustrated seniors at assisted living homes will get vaccines soon now that state has stepped in »](#)

The state has acquired only a fraction of the vaccines for that group, and the state health department's communications infrastructure suffered collapse after collapse in dealing with the demand. So far in Florida, 646,327 people have received the first dose and 61,151 have received both doses.

ADVERTISING



Both Rivkees and his deputy, Dr. Shamari Roberson, said a statewide website to register for a vaccine is in the works.

"We are piloting it now and hope to have it available in the coming weeks," Roberson said. Rivkees promised to give senators additional updates as his agency "gets closer to the finish line. "

As senators pressed Rivkees for a timeline, the surgeon general said the distribution will be completely dependent on additional manufacturers getting emergency authorization for vaccines now in phase 3 clinical trials.

At this time, Florida is getting about 800,000 to a million doses a month of the Pfizer and Moderna vaccines.

With 22 million people in the state, the rollout would take 22 months at the current rate, Sen. Ben Albritton, R-Bartow, pointed out. Only about 400,000 of 4.5 million seniors have been vaccinated with the first dose.

"We are in a supply-limited situation and hopefully as more vaccines become available and other manufacturers get approval, we can move beyond this group," Rivkees said.

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Rivkees emphasized the health department workers are overburdened and seniors need to be patient.

"We are on day 313 of this pandemic and some individuals have not had a day off," he said. "It's going to take a while. How do you convey patience during a pandemic? It's a difficult conversation to have. As soon as the vaccine gets to Florida, we will get it to individuals in need. This vaccine is our ray of hope, our path forward out of the pandemic."

[RELATED: Foreign nationals getting their COVID shots in Florida »](#)

Sen. Gary Farmer, a Broward lawyer who serves as Senate Democratic leader, asked Rivkees why teachers would not be a high priority for vaccination in Florida.

Rivkees said the 4.5 million seniors get priority and could take a while to reach.

"If there is a teacher or educator who is 65 or older or have a serious underlying medical condition those individuals can absolutely get vaccinated," Rivkees said. "When we look in state 85% who passed away are 65 years of age or older ... We are on a supply limited situation, hopefully as other manufacturers begin to get approval we will move beyond this group."

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Sen. Lauren Book, D-Plantation, asked about “vaccine tourism” to Florida by people who couldn’t get the injections at home.

Roberson responded, “The federal government has advised that this is a federal asset so people can come from other states, but I’m happy to report with the numbers that I’m giving you that more than 96% of the persons who have received this vaccine in Florida are Florida residents.”

She did not address the widely reported claims that seniors from Argentina, Canada and other countries were taking advantage of Florida’s loose rules to obtain vaccines available only to limited groups in their own countries. The state’s figures show that 27,651 people from out of state have received the vaccine in Florida, but it does not say where they came from or how many came from outside the United States.

Talking with reporters after the hearing, Rivkees said he expected the number of available vaccines to rise and allow Florida to start returning to normal life.

“It truly is a ray of hope because this is our path out of the pandemic,” he said. “I don’t think there’s any question that we’re going to see a substantial increase in terms of vaccine availability.”

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COVID surge in Florida is at highest point since January, with 17,589 new cases in a day

David Fleshler can be reached at dfleshler@sunsentinel.com or 954-356-4535. Cindy Goodman can be reached at cgoodman@sunsentinel.com.

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Exhibit 2

Cruise News > Virgin Voyages > Virgin's First Adults Only Cruise Ship Arrives in Miami

Virgin's First Adults Only Cruise Ship Arrives in Miami



By Ben Souza March 7, 2020 0

Cruise News

Virgin Voyages

Scarlet Lady, the first adults only cruise ship from Virgin Voyages, arrived in her homeport of PortMiami earlier this morning.



After a series of press events and a christening planned for March 19, the cruise ship will sail two sneak a peek cruises on March 26 and 29. The cruise line's maiden voyage will take place on April 1, 2020, a four night cruise with port stops in Key West and the Bimini Islands.

[View Cruise Itineraries on Virgin Voyages from Miami](#)



Save

Scarlet Lady, the first of four cruise ships from Virgin Voyages, is scheduled to sail out of Miami for the next two years. The cruise line is promising to shake up the cruise industry by offering an experience geared toward those who haven't wanted to cruise.

Cruise fares include gratuities, all 20 dining options on the ship, WiFi, fitness classes, and basic beverages.

There will be no formal nights or main dining rooms.

Virgin Voyages is partnering with one of NYC's most historic tattoo brands, World Famous Tattoo Ink, and their owner Lou Rubino Jr., for the first tattoo studio at sea.

Staterooms on Scarlet Lady feature transformational cabin beds, single cabins for solo travelers, and 86% of cabins have a balcony.



Cabin setup during the day on Scarlet Lady with the first transformational bed at sea The bed will turn into a lounge for a better cabin experience when you aren't sleeping

All cruises on Scarlet Lady will spend a day at The Beach Club in Bimini.

Scarlet Lady will sail four and five night cruises from Miami to the Bahamas and Western Caribbean. Four night cruises will stop in Key West and Bimini. The five night cruises to the Western Caribbean will visit Bimini and either Cozumel or Costa Maya, Mexico.

Also offered a few five night sailings that will visit the Dominican Republic.

[View Prices on Cruises on Scarlet Lady](#)

Scarlet Lady is the first of four cruise ships from Virgin Voyages. The 110,000 gross ton cruise ship has a passenger capacity of 2,770 to go along with 1,160 crew members.

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Exhibit 3

The Washington Post

Democracy Dies in Darkness

The newest status on cruise ships: Being vaccinated

For unvaccinated adults, trips will include extra tests, expenses and restrictions

By [Hannah Sampson](#)

June 30, 2021 at 1:36 p.m. EDT



For vaccinated travelers, getting on a cruise ship in North America over the next couple of months shouldn't feel much different than it did before coronavirus shut down the industry: They will be able to go to shows, dine at restaurants and bars, listen to live music, and, in some cases, mingle without masks.

For unvaccinated adults — if they are even allowed — it's a different story. The experience is full of extra expenses, testing requirements, off-limits areas and other restrictions.

Welcome to covid-era cruising, in which operators are slowly welcoming passengers back with layers of protection in place to keep the virus at bay — or at least from spreading. In recent weeks, a handful of [positive cases](#) have been reported on ships in North America, though safety measures prevented larger outbreaks.

The temporary class system is proving divisive [on social media](#), where some cruise fans say vaccinations should be required and some are accusing cruise lines of creating “second-class citizens.”

“They need to come out and say unvaccinated people are not welcome because this is getting to be a little too much,” one man wrote on the [Facebook page](#) of Royal Caribbean International CEO Michael Bayley.

Royal Caribbean International's first U.S. cruise, on Freedom of the Seas, leaves Miami on Friday. Vaccinated passengers will wear wristbands. Those who are unvaccinated will have a hole punched in their room card, which will be required to get into lounges, shows and restaurants.

"Since the majority of our guests will be vaccinated, there will be venues and events restricted to vaccinated guests only," the cruise line said in a letter to guests. "We'll do our best to create opportunities for all guests to enjoy their time with us."

The letter said unvaccinated guests 16 and older will have to take multiple coronavirus tests at a cost of \$136. The cruise line will cover the cost of tests for children and young teens.

Both vaccinated and unvaccinated passengers will have to wear masks inside unless they are sitting down and "actively" eating or drinking. Outdoors, masks are only required in a crowded setting.

Some venues or events will be designed for vaccinated passengers, and masks will not be required in those cases. There also will be showtimes set aside for vaccinated guests. The main dining room will have separate areas for vaccinated and unvaccinated reservations, with those who are not vaccinated locked in to assigned times.

When going ashore, "it is reasonable to expect that unvaccinated guests will be subject to stricter protocols than vaccinated guests," the letter said.

Unvaccinated passengers age 12 and older on Florida cruises will also have to buy travel insurance that covers "medical, travel and other related costs for covid-19 should they test positive while on board," the cruise line said this week.

"If you were a customer, why would you want to be one of few on a ship wearing a mask, social distancing, and getting tested — not to mention the additional costs?" said Alex Sharpe, president and CEO of Signature Travel Network, in an email. "If the State of Florida would allow cruise lines to require proof of vaccination, these guys would all do it, while finding workarounds for kids under 12 who pose a very limited health risk."

Celebrity Cruises, also part of Royal Caribbean Group, became the first cruise line to sail from the United States when Celebrity Edge left from Fort Lauderdale this past weekend. The cruise line is also issuing wristbands to vaccinated passengers. Celebrity has committed to sailing with all crew and at least 95 percent of passengers vaccinated, a CDC shortcut to a quicker restart.

In Florida, the line said those 16 and older who decline to show proof of vaccination at boarding “will be treated as unvaccinated and subject to additional protocols, restrictions, and costs for covid-19 testing.”

That means a total of four coronavirus tests are required, at a \$178 cost to the passengers. Masks will be mandatory except while eating and drinking. Unvaccinated passengers 16 and older will have seating areas set aside for them in venues including dining rooms, the casino and theater.

They must also book a Celebrity-curated tour during shore excursions and “may be further restricted from going ashore,” depending on what local governments require.

Richard Fain, CEO of Royal Caribbean Group, said he probably would require vaccinations for everyone eligible in Florida if the state allowed it. But, he said, the company has different requirements in different jurisdictions. In addition, he says adding restrictions for unvaccinated passengers is the right solution.

“And so if you are able to get a vaccine but choose not to do so, it is possible to book,” he said. “It just means that you have to follow through on the other protocols because you don’t have the protection of the vaccine.”

It’s not clear how many unvaccinated adults will even try to sail from Florida; Royal Caribbean has said its surveys show 90 percent of customers who were booking were already vaccinated or planned to be in time for their cruise. On the first U.S. cruise on Celebrity, 99 percent of the people on board were fully vaccinated, the company said. Since health guidelines are constantly in flux, the rules for the unvaccinated could change in coming months.

Further complicating matters, Florida sued the Centers for Disease Control and Prevention over its rules for cruise lines, and a judge agreed to stop the agency from enforcing its rules in the state in mid-July. It's unclear if the CDC will come back with a narrower set of guidelines, or if cruise lines will change any of their safety measures — which are in line with the agency's current rules — as a result.

“Let's be honest — NO cruise line wants unvaccinated adults on their ships,” said Sharpe, the Signature Travel Network CEO, in his email. “There is simply too much at stake!”

Carnival Cruise Line has said it plans to sail Carnival Horizon from Miami with at least 95 percent of passengers vaccinated starting Sunday. The cruise line, which has CDC approval for the cruise, has not said how it plans to navigate the state law that keeps companies from requiring proof.

Norwegian Cruise Line, which does not yet have CDC approval, has said it will sail with 100 percent of people on board vaccinated.

“We're hearing some confusion among cruisers who are still trying to navigate the various policies,” Chris Gray Faust, managing editor of the cruise news and review site [Cruise Critic](#), said in an email. “The challenge is that different states have different laws and regulations, which means that protocols vary from line to line, and even ship to ship.”

Gray Faust said the majority of Cruise Critic readers surveyed — 80 percent — said they preferred to sail with a vaccine requirement.

“As lines continue to evolve their policies, those cruisers are monitoring the changes closely,” she wrote, “many reporting that they're making their booking (and cancellation) decisions strictly based on those policies.”

William Schaffner, professor of preventive medicine and infectious diseases at Vanderbilt University School of Medicine in Nashville, said requiring vaccinations across the board “just makes very straightforward public health sense.”

“If you're going to bring people together in a congregate setting, I think obliging them to be vaccinated is entirely appropriate,” he said.

But where that isn't possible, Schaffner said, the approach of adding restrictions and other measures for unvaccinated

people to protect them and everyone else on board is a reasonable solution.

“It’s getting as comprehensive in putting in public health barriers to transmission of the virus as it is possible given the constraints that they’re working under,” he said.

Updated May 28, 2021

More cruise news

Latest on the cruise comeback: What covid-era cruises are like | Norwegian sues Florida | Rules for unvaccinated cruisers | Florida lawsuit | Royal Caribbean covid cases | Celebrity covid cases | MSC covid cases | Alaska voyages | Life on Celebrity Edge

Exhibit 4

Travel

On Cruises That Allow Them, the Unvaccinated Are Second-Class Citizens

A way forward has emerged for some cruise companies. And few people are happy about it.

By [Fran Golden](#)

July 7, 2021, 6:25 AM EDT

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Today

Royal Caribbean's 4,275-passenger *Freedom of the Seas* has restarted sailings from Miami to the Bahamas with two classes of passengers on board—those who've been vaccinated against Covid-19, and those who have not. Jabbed guests, identified with special wristbands, get full run of the ship; those unprotected from the virus won't even be able to walk into the sushi bar, casino, or spa.


Freedom is the first ship to depart the U.S. without a vaccination requirement, and it's also the first to depart from the nation's cruise capital of Miami. For all the city's influence on the cruising industry, it's also proved to be a difficult place to restart business, given that Florida Governor Ron DeSantis has barred businesses from requiring vaccine cards.

“The cruise experience benefits from being impromptu,” says Jukka Laitamaki, a tourism marketing expert and professor at the NYU School of Professional Studies Jonathan M. Tisch Center of Hospitality. Cruisers are typically free to hang out where they want, do what they want to do, and make friends. But unvaccinated cruisers on *Freedom* will find much of that restricted.

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“It is the cruise lines’ worst nightmare to have to have separate areas for the vaccinated and unvaccinated,” Laitamaki says.

The system has proved necessary. Even on cruises with strict Covid-19 vaccine requirements for adults, issues have already cropped up. In late June, Royal had to pay to repatriate two unvaccinated teenagers who tested positive—and their families—from the Bahamas. Sister line Celebrity also had an incident of two asymptomatic guests testing positive on a sailing from St. Maarten. (Remember, you can still carry the coronavirus even when vaccinated.)

Two-Class System



Freedom of the Seas, which received a \$116 million makeover in early 2020, has a duo of racing waterslides called the Perfect Storm on its top deck. Source: *Royal Caribbean International*

The U.S. Centers for Disease Control and Prevention’s rules for cruise companies require lines to enforce mask-wearing and social distancing when unvaccinated cruisers are on board. But companies have some discretion about the finer points.

Royal Caribbean’s list of restrictions for *Freedom*, issued in mid-June, is a long one. It applies to all sailings on the ship in July—and likely to four other ships the line plans to launch from Florida this summer, with capacities of up to 6,680 passengers.

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Those with a hole punched in their SeaPass—indicating that they haven’t been jabbed or declined to show a vaccine card—will be segregated to one deck of the main dining room and will be banned from some of the better, more intimate for-a-fee dining venues. (That includes families with unvaccinated kids, too, so long as they’re sticking together.) Off limits will be the popular maritime-themed Schooner Bar pub and Viking Crown nightclub, the casino, art auctions, and the indoor Solarium pool and bar. Gatherings such as the 1970s-themed party will be open only to vaccinated guests. If you aren’t immunized and want to see a show, you’ll sit in a segregated area in the back of the theater. And you can only use the gym during specified hours.



Casino games on *Celebrity Edge*, the first revenue-earning cruise ship to depart from the U.S. after the pandemic-induced hiatus. *Photographer: Eva Marie Uzcategui/Bloomberg*

At least for now, mask wearing is required indoors (but not outdoors) of everyone on board *Freedom* when not eating or drinking—though some venues that are only open to vaccinated guests will be able to nix the rule.

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The trip will cost more for unvaccinated guests, too. Anyone over the age of 12 who doesn't voluntarily show proof of vaccine will have to provide a negative result from a Covid-19 PCR test taken within three days of departure. They'll also have to pay for a second test at the pier and a third upon disembarking on the last day—totaling \$136 or \$178 per person, depending on the sailing.

In addition, Royal is requiring unvaccinated travelers leaving from Florida to purchase travel insurance—at least \$25,000 per person for medical expense coverage and \$50,000 per person for medical evacuation—from Aug. 1 through the end of 2021. On a one-week cruise, this can add \$200 or more to the combined fare of an unvaccinated family of four.

And that's just on the ship. Each port of call has its own constantly changing rules, some requiring guests without immunity to stay on board or limit themselves to select shore excursions.

Economic Impact





Freedom of the Seas depart Miami in June with both vaccinated and unvaccinated passengers Source Royal Caribbean International

For cruise lines, which have already lost billions of dollars in the pandemic and are just getting back to business, the two-class system may have an impact on the revenue stream. Onboard spending accounted for 28.3% of Royal Caribbean's total revenue in 2019, according to Bloomberg Intelligence senior analyst Brian Egger. If there are many unvaccinated passengers, those figures may end up suppressed.

So far that's not the case. Only 7% of the passengers on the first *Freedom* cruise are unvaccinated, and most are kids. At that rate, onboard spending losses may tap out at about \$50,000—a drop in the bucket on a ship that, say, rakes in \$1.5 million per trip. Mark Tamis, senior vice president of hotel operations for Royal, said lost revenue didn't even enter into the equation.

But the line is currently only sailing at 40% capacity to allow for social distancing and put new health protocols to the test—with plans to ramp up capacity throughout the summer. What's more, immunized guests may not want to co-mingle with the un-jabbed, potentially hampering ticket sales or driving cancellations, which have been high since Royal announced its protocol.

“The people who are not vaccinated don't want restrictions,” says Mindy Breitman, a travel adviser with Cruise Planners, who has been busy fielding cancellation requests. “And the people who are vaccinated don't want to wear masks because of the non-vaxed on board,” she says.

Executives Sound Off





A Pride party on the *Celebrity Edge* in June. Photographer: Eva Marie Uzcategui/Bloomberg

Both cruisers and cruise executives agree that a vaccine requirement would be the ideal way to go. The CDC recommends at least 95% of passengers and crew be vaccinated. And in fact both Royal's sister line Celebrity Cruises and Carnival Cruise Line are appearing to put DeSantis's decree to the test, with carefully worded policies that boil down to vaccine requirements for anyone on board.

In places like Alaska and Galveston, Texas, where they've been given the choice, major cruise lines have also only allowed inoculated guests on board—making exceptions only for children. Norwegian Cruise Line says its ships only will sail with vaccinated passengers through October. And all the lines are aiming for 100% crew vaccinations.





Windstar's *Star Breeze* last month in the Caribbean. *Photographer: Fran Golden*

Richard Fain, chairman of Royal Caribbean Cruises, parent of both Royal Caribbean International and Celebrity Cruises, has said repeatedly that he'd prefer that all guests get the jab –adding that surveys show that more than 90% of the line's customers are vaccinated. Micky Arison, chairman of Carnival Corp. (parent company of brands such as Carnival Cruise Line, Princess Cruises, and Holland America Line), has taken to Twitter to urge vaccines.

Cruisers don't need much persuading. Most are showing a strong desire to sail with other vaxed passengers—a survey of 5,000 readers of the popular website Cruise Critic found last month that 89% would cruise if vaccines are a requirement.

But there has also been some pushback. When Mike Bayley, president and chief executive officer of Royal Caribbean, explained policies for unvaccinated guests on Facebook recently, the hundreds of responses he received included both applause and vitriol from opponents espousing anti-vax rhetoric.

“My only request is please share your opinion or comments in a polite way,” Bayley said in a follow-up. “If you could read some messages I have received! It's scary!”

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Exhibit 5



Enhancing Public Health
COVID-19 Guest Protocols
Frequently Asked Questions

Frequently Asked Questions

Updated July 16, 2021

What's on this page: [Before You Sail](#) / [Embarkation](#) / [Onboard Experience](#) / [Health & Safety](#) / [Shore Visits & Excursions](#) / [Post-Cruise](#)

Princess continues to work with the United States Centers for Disease Control and Prevention (CDC) on finalizing onboard health protocols. We are awaiting further guidance for our return to service and will communicate these final updates to our guests. Below are frequently asked questions on the protocols currently planned for voyages sailing from the United States. [View frequently asked questions](#) on the protocols currently planned for UK voyages sailing from Southampton.

Before You Sail

Are these cruises only available to COVID-19 vaccinated guests?



Yes. These cruises are available for guests who have received their final dose of an approved COVID-19 vaccine at least 14 days prior to the beginning of the cruise and have proof of vaccination, in accordance with CDC guidelines.

Proof of COVID-19 vaccination and the dates given will be required and will need to be shown at the terminal prior to boarding. Failure to provide this evidence will result in denial of boarding.

There is no age restriction on this series of cruises but guests of all ages must be fully vaccinated.

If you are unlikely to be fully vaccinated at the time of departure, please refer to our [Book with Confidence Policy](#).

Guests should always ensure they understand all requirements to travel from their home country and the destinations they plan to visit. Details continue to be updated regularly and official websites and apps developed by government agencies and tourism ministries are the recommended resources.

For guests on voyages sailing from Southampton between September 30 and November 3, 2021 on Regal Princess and between October 5 and November 5, 2021 on Sky Princess, all guests 18 years old and over will be required to have completed their vaccination course a minimum of 14 days prior to sailing. All guests 17 years old and below will need to have completed their vaccination course a minimum 14 days prior to sailing or will require a negative PCR test within 72 hours prior to travel.

Which COVID-19 vaccines will be accepted?

Acceptable vaccines are those that have an emergency use authorization or listing from the U.S. Food and Drug Administration (FDA) or the World Health Organization (WHO).

How will you check that I am fully vaccinated?

It is our guests' responsibility to comply with our current Princess vaccination policy.

Prior to the cruise departure, using the MedallionClass app, guests will be required to attest that they will be fully vaccinated at time of embarkation. This means completing all required doses of a COVID-19 vaccine series at least 14 days before embarkation. Guests should be ready to show original proof of vaccination at cruise check-in.

The original proof of vaccination should clearly show the guest's name on the vaccination card matching their photo ID, the dates of vaccine doses (final dose must have been received at least 14 days prior to the beginning of the cruise), and the name of facility administering the vaccination. Alternative proof may be required if there are questions and concerns about the submitted proof of vaccination.

Failure to provide this evidence will result in denial of boarding. Information provided will be subject to our privacy notice on princess.com, and shared only as needed with Princess personnel, third parties or local health authorities as part of screening and embarkation-related health protocols.

What proof of full vaccination will be accepted?

The following formats are acceptable proofs of full vaccination: COVID-19 vaccination card (original card only; no photocopies accepted), digital COVID-19 certificate (QR code acceptable); or record of COVID-19 vaccination from a healthcare provider including original digital email notification, personal electronic health record, or government Immunization information system (IIS) record.

The following identifiers for the proof of full vaccination should include your first and last name, a patient identifier such as date of birth, medical record ID, or government ID, type of vaccine (manufacturer), date of all doses administered, lot number, if available, and healthcare professional or clinic site name. The proof of full vaccination must show that your final dose of vaccine was received at least two weeks (14 days) prior to the beginning of the cruise. Alternative proof may be required if there are questions and concerns about the proof of vaccination you produce. During check-in at the terminal, you will be required to show full proof of vaccination. If you are unable to produce the described proof of vaccination, you will be denied boarding without refund, credit or compensation of any kind.

If I've received mixed vaccinations, will that satisfy your vaccination requirements? ▲

In accordance with health authority guidance, guests who have received one single dose of a vector vaccine (e.g. AstraZeneca) and one single dose of a mRNA vaccine (e.g. Pfizer/BioNTech, Moderna) will not be considered fully vaccinated. Guests who have received two doses of a vector vaccine or two single doses of mixed vaccines that are the same type (e.g., mRNA) will be considered fully vaccinated and will be permitted to sail, so long as the final dose is received at least 14 days prior to the beginning of the cruise.

If I have been given special accommodation to board due to a medical or religious exemption preventing me from being vaccinated against COVID-19, how will our cruise experience differ from guests who are fully vaccinated? ▲

In accordance with CDC directives, guests on board these cruises are required to be fully vaccinated. It is our intention to accommodate guests on a case-by-case basis who are entitled to special accommodation under applicable laws, to the best of our ability. This is subject to the CDC guidelines for the maximum number of unvaccinated guests on board at any given time.

In accordance with CDC directives, all unvaccinated guests must follow these COVID-19 protocols:

- show proof of a negative pre-travel COVID-19 Rt-PCR test performed 72 hours prior to sailing
- have an embarkation day COVID-19 test performed at the terminal and a COVID-19 test performed prior to disembarkation (if the cruise is longer than 4 days), as per health authority requirements. We must also provide testing information and reporting to the destinations we visit. To cover the cost of testing and administration, we have set a charge of US\$150, per person, which will be assessed to your onboard account if you are cleared to sail.
- wear a face mask at all times indoors, in accordance with health authority requirements. A face mask will be required during embarkation and disembarkation, spa treatments, approved shore excursions, medical center visits, and any indoor locations in crowded settings. Exceptions include temporarily, while eating and drinking, when inside your own stateroom or balcony, when performing high-activity exercise outdoors, outdoors when physical distancing of 3 ft (1 meter) can be maintained, and when in the pool
- maintain physical distancing of 3 ft (1 meter) from other people outside your travel group, including at dining locations
- guests will only be permitted to go ashore through shore excursions sold by or through Princess using tour operators who comply with our COVID-19 protocols. Self-exploration or participation in shore excursions not sold through or operated by Princess will not be permitted.

If you refuse to be tested or screened, or to follow the COVID-19 Protocols, you will be denied boarding and no refund or credit will be issued.

Anyone who doesn't comply with the onboard public health measures may be disembarked at the first available opportunity. Other consequences could include being denied service, required stateroom isolation and being banned from sailing in the future. If you are non-compliant, no refund of the cruise fare for unused cruise days or travel expenses (if flying home) will be covered. If your travel party is impacted and/or they are required or voluntarily choose to leave with you, the same policies will apply to them: there will be no refund of cruise fare for unused cruise days or coverage of travel expenses home.

Given the above CDC directives for unvaccinated guests, if you feel you need to change your plans, please refer to our [Book with Confidence](#) policy for cancellation options.

If I require oxygen and/or dialysis during my cruise, may I still travel?

Unfortunately, we are unable to accept guests who are dependent on oxygen or dialysis at this time. This includes guests who use oxygen concentrators. Our medical experts have determined that, for the guest's own safety, this is the right decision.

We've had to make some difficult decisions based on general public health guidelines and the overall health and safety of our guests. We remain optimistic that our approach on future sailings will become more flexible.

Will crew be vaccinated?

Crew vaccinations will be in accordance with CDC guidelines.

Will I need a passport?

Guests are required to bring all necessary travel documents such as passports (with a minimum of 6-months validity after your date of return), visas, proof of citizenship, re-entry permits, or minor's permissions.

Requirements may vary based on guest's nationality, as specified in [Travel Document Requirements](#).

Do I need travel insurance?

Given the current global travel and health environment, all booked guests are strongly encouraged to purchase travel insurance prior to departure.

For eligible guests, [Princess Vacation Protection](#) provides a broad range of benefits, including for COVID-19-related expenses, subject to the plan terms. Guests can also purchase third-party travel insurance as well and should check with the provider for specific details on their coverage terms and policies.

Can I book my own transportation to the ship prior to my cruise?

Yes, you may arrange your own transportation to the port; however, you must arrive within your selected time to maintain physical distancing during the check-in and boarding process.

If you come to the terminal before your arrival time, you will be asked to wait away from the terminal until you are permitted to enter during your specified arrival time.

Can I book any hotel stay prior to my cruise? ▲

Yes, you may book lodging at your own discretion, following local guidelines. Guests must fulfill all requirements for pre-cruise testing however and post-cruise as the destination requires.

Guests should check for the latest requirements on the destination official government websites to understand what documents and tests may be required upon arrival.

Will I need to complete a health questionnaire before boarding? ▲

Yes, you should receive a notification to complete your health questionnaire from 72 hours before you embark the ship, using the MedallionClass app. You'll be asked to complete the questionnaire before leaving home to begin traveling on your vacation, and then reconfirm your answers when arriving at the port.

If you have any symptoms of illness, you will be separated from other embarking guests for secondary screening. Depending on the outcome of the screening, you and your traveling party may be denied boarding.

During a medical screening, our medical staff will need to verify your health questionnaire answers, or any corrections, and then consider whether to permit you to embark.

If you refuse to be tested or screened, or to follow the COVID-19 Protocols, you will be denied boarding and no refund or credit will be issued.

The results of any COVID-19 tests, and information provided on the health declaration will be subject to [Princess Cruises Privacy Notice](#), and shared only as needed with Princess personnel, third parties or local health authorities as part of screening and embarkation-related health protocols.

If I've received the COVID-19 vaccine, am I also required to have a pre-travel COVID-19 test performed 72 hours prior to boarding the ship? ▲

To board the ship, fully vaccinated guests will not be required to have a pre-travel COVID-19 test performed, though vaccinated guests who have travelled internationally within the last 14 days may be required to be tested for COVID-19 at the terminal.

For guests on voyages sailing from Southampton between September 30 and November 3, 2021 on Regal Princess and between October 5 and November 5, 2021 on Sky Princess, all guests 17 years old and below will need to have completed their vaccination course a minimum 14 days prior to sailing or will require a negative PCR test within 72 hours prior to travel. All guests will also require a negative COVID-19 test at the terminal. The PCR test and COVID-19 test at the terminal will be provided on a complimentary basis.

Guests who travel internationally should always ensure they understand all entry and airlines requirements to travel from their home country and the destinations they plan to visit, including where health authorities may require pre-travel COVID-19 testing. Details continue to be updated regularly; official websites and apps developed by government agencies and tourism ministries are the recommended resources.

Embarkation

Will arrival times be assigned to guests?

We're requiring all guests, no later than midnight before their sailing date, to complete online check-in and select an arrival time using the MedallionClass app.

You must arrive within your selected time to maintain physical distancing during the check-in and boarding process.

What if I arrive at the terminal before my assigned time?

If you come to the terminal before your arrival time, you will be asked to wait away from the terminal until you are permitted to enter during your specified arrival time.

If I am denied boarding at the terminal for failure to produce my proof of vaccine, will you reimburse my out-of-pocket expenses to that point and the cost of my travel home?

There will be a Princess representative on-site at the terminal to support any guests who are denied boarding. However, if you are denied boarding for failure to produce proof of being fully vaccinated at time of embarkation (final dose must have been received at least 14 days prior to beginning of the cruise), any costs incurred will be at your own expense.

What if I test positive for COVID-19 at the terminal on embarkation day?

Guests who test positive for COVID-19 will be denied boarding, together with their family members and close contacts who are not fully vaccinated.

If you, your family members, travelling companions or other close contacts are suspected of having COVID-19 and are denied boarding, you are entitled to a 100% Future Cruise Credit.

Change fees and reasonable expenses related to shoreside medical care for COVID-19, shoreside quarantine and travel home for you and your immediate travel party will be covered by Princess if not reimbursable from medical insurance, travel protection plan or other responsible party.

Additionally, any shoreside meals will be covered through Princess by a per diem meal allowance, we will provide a dedicated Family Assistance liaison for care and logistical shoreside support, and provide assistance opening insurance claims for those guests who purchased travel protection.

If you are unable to travel, our Family Assistance department will coordinate lodging, medical, and insurance support.

If you have purchased a travel protection plan through us, you and your traveling companion may make a claim for a refund under the trip interruption benefit instead of receiving the Future Cruise Credit.

Exceptions may apply for asymptomatic guests that have tested positive for COVID-19 in the 90 days prior to embarkation, and are fully recovered. Guests will need to provide a letter of recovery from their doctor and, laboratory test results that are not older than 90 days.

If I forget my proof of vaccination on embarkation day, can I meet the ship at its next port and board there? ▲

Guests who are denied boarding at the embarkation port for lack of vaccination proof may be able to join the ship at another port in the itinerary, subject to the agreement of the port. Guests must meet the same proof of full vaccination as required of them on embarkation day. Any incurred costs will be at the guest's own expense.

Onboard Experience

Will I have to wear a face mask or physically distance? ▼

Are face shields classed as a mask? ▼

Will I still be able to enjoy the buffet? ▲

Yes, only now we will also have our teammates will serving you at some stations. Tables will be cleaned and sanitized upon each table use.

How will I be able to make dining reservations? ▲

Guests will be able to reserve dining times for our main dining rooms and specialty restaurants through Dine My Way in the MedallionClass app, to support the best control flow and guest capacity.

Will you have hand washing and/or sanitizing stations at dining venues? ▲

Yes, you'll be required to wash or sanitize your hands upon entering and exiting food service areas. Crew members will monitor compliance, especially during peak service times. At the entrance of all food and beverage outlets, either hand washing stations or hand sanitizer dispensers will be available and regularly replenished.

What enhanced health protocols will you have in dining areas? ▲

Guests will reserve their dining times through Dine My Way in the MedallionClass app to best control flow and capacity. Physical menus will be presented and cleaned after each use. Additionally, guests will be able to see what's offered in our main dining rooms and specialty restaurants digitally through Dine My Way, QR code, and on stateroom televisions

Enhanced sanitation practices will be always in place, including the sanitization of chairs, armchairs and tables after each guest use. Individually-wrapped cutlery will be provided.

Can I still order room service?

Yes, room service will be available for guests. Menus will be available through OceanNow and on stateroom television. Pre-orders for breakfast are also available through the use of a stateroom breakfast card.

Will I still be able to enjoy guest performers, musicians and the like during my cruise?

Yes, we will feature production shows, singers, comedians, musicians, lecturers, arts and crafts, bingo, classes, presentations and entertainment staff as a part of your onboard experience. This team will maintain physical distancing with guests while performing, and no onstage interaction with guests will be permitted.

Will you still host dancing, karaoke and other group events?

Shared experiences and larger group events including indoor dancing, nightclubs, karaoke and singing groups, The Voice of the Ocean, behind-the-scenes tours, Captain's Champagne Waterfall, and group renewal of vows will not be available during these cruises, with the exception of select instructor-led classes hosted with physical distancing.

What enhanced health protocols will you have in the Casino?

Our Casino will resume with enhanced and frequent sanitation of all high-touch surfaces, including table game positions, slot machines, and cashier areas. Smoking will be permitted in the Casino and within our designed Cigar/Cigarette lounges.

Casino dealers will wear Personal Protective Equipment including face shields.

How will you enhance health protocols in the shops?

We'll remove all cosmetic testers from the shop floor and instead offer sampling with disposable applicators in one-on-one consultations.

During these cruises, guests won't be able to try on clothing for sale in the retail shops and paper receipts will not be provided, but will be available on the guests' digital folio.

Will you still offer Lotus Spa services?

Yes, onboard spa operations and services will be offered on these cruises, but amenities may require reservations and capacity may be limited.

Services including haircuts, manicures and massages will be available for guests to reserve. All stations, treatment rooms, and other high touchpoints will be sanitized frequently and after each use.

While you'll have access to restrooms in the locker room, use of the lockers and changing rooms will not be available. Instead, you can change privately in your treatment room.

Can I still use the fitness center?

Yes, the fitness center will be open. Reservations may be required.

We encourage you to perform high-intensity exercise outdoors, when possible, and will offer outdoor fitness classes when we can.

Please also be sure to bring your own water bottle to keep yourself hydrated during your workout.

How will you sanitize the fitness center equipment?

We're implementing enhanced cleaning and sanitation protocols for the gym, with a focus on frequently touched surfaces. We're requiring guests to clean the equipment after each use, with product disinfection wipes located nearby. Team members will monitor the gym to make sure this happens, as well as clean all equipment regularly.

Will my children be able to enjoy Camp Discovery?

Yes, our youth and teen programs will operate for children 12-17 years old, with reduced occupancy and physical distancing, but will not offer meals.

Only youth participants will be permitted inside the centers. We have not defined the final programming for these venues as we await further health guidance on the operation of these Centers.

High touch surfaces, supplies, and equipment will be sanitized frequently. Activities such as dance parties, Stanley the Bear (costume character), singing events, hosted dining events and contact group games will not be offered. Outdoor play areas will be utilized when possible.

How will our staterooms be cleaned?

There will be reduced interaction between guests and housekeeping staff. A reduced verbal introduction will be delivered from outside your stateroom upon arrival, and we encourage you to call your steward or, better yet, use OceanNow in the MedallionClass app to request any needed services remotely.

Staterooms will be cleaned once per day (unless you request turndown or opt not to have any cleaning service during your cruise), and the set-up, cleaning and disinfection will need to be completed when you're out of your stateroom.

Housekeeping and maintenance staff will wait to enter a stateroom for cleaning and maintenance for at least 15 minutes after guests have left it, unless services are required immediately.

Will I be able to do my own laundry on board?



Yes, laundromats will be available for guests to use on voyages sailing from Seattle, Los Angeles, San Francisco, and Ft. Lauderdale.

Health & Safety

What happens if I don't follow the health protocols?



Anyone who doesn't comply with the onboard public health measures may be disembarked at the first available opportunity. Other consequences could include being denied service, required stateroom isolation and being banned from sailing in the future.

If you are non-compliant, no refund of the cruise fare for unused cruise days or travel expenses (if flying home) will be covered.

If your travel party is impacted and/or they are required or voluntarily choose to leave with you, the same policies will apply to them: there will be no refund of cruise fare for unused cruise days or coverage of travel expenses home.

How can I safely make an appointment with the Medical Center?



You can request non-urgent appointments by phone or through CrewCall Chat using the MedallionClass app. We'll use an electronic appointment system to schedule arrival times for non-urgent outpatient consultations. This will avoid congregation of patients in the Medical Center and allow the medical staff to pre-determine the best location for the consultation, including in-stateroom consultation.

Anyone suspected of COVID-19 will be assessed and treated in their staterooms whenever possible with all medical first responders wearing full PPE. Medical staff will arrange safe transfer of any unwell individuals to the ship's Medical Center if additional treatment is required that cannot be provided in the stateroom. Onboard COVID-19-related medical center care and suspected case testing will be free of charge.

If I have COVID-19 symptoms, will I need to be isolated?



Yes, anyone reporting or exhibiting COVID-19 symptoms will be reviewed by the shipboard medical staff and tested for SARS-CoV-2 (the virus that causes COVID-19). COVID-19 cases will be assessed and treated either in their stateroom, or in a designated area of the Medical Center in a single occupancy ward.

Positive cases that do not require admission to the ship's medical center, or medical disembarkation, will most likely be moved to a different cabin for the duration of their isolation.

If you, your family members, travelling companions or other close contacts are quarantined or medically isolated during your voyage as a result of a positive COVID-19 test or are suspected of having COVID-19, you are entitled to a 100% Future Cruise Credit for missed cruise days, including time in quarantine, for you, your travel party, and any confirmed close contacts, if any of you test positive during your cruise.

If you have purchased a travel protection plan through us, you and your traveling companion may make a claim for a refund under the trip interruption benefit instead of receiving the FCC.

Will testing for COVID-19 be available on board the ship?

Yes, all ships will have access to COVID-19 viral testing capabilities, including SARS-CoV-2 RT-PCR, RT LAMP and antigen tests. Protocols for testing for SARS-CoV-2 will be based on expert recommendations, including CDC testing guidance. Onboard COVID-19-related medical center care for positive or suspected COVID-19 cases will be free of charge.

How will you mitigate and manage COVID-19 cases on board?

We have created an extensive response plan in consultation with leading medical experts and advisors to provide overarching guidance on our approach to health and safety in a world where COVID-19 continues to be managed.

Our plan includes graduated responses based on the overall transmission risks to those on board if a case of COVID-19 is suspected or diagnosed. Direction will be determined by a joint shipboard and shoreside team that will consult with health authorities, and clinical providers as necessary. We have also made arrangements with local port, health and transportation authorities to support our vessels should it become necessary.

In addition to the onboard Medical Center, the shoreside Health Operations Center is staffed 24/7 by our team of dedicated medical and public health professionals.

Will the Medical Center have special enhancements to manage COVID-19 on board?

Every ship has dedicated medical staff (Doctors, Nurses, etc.) operating ship medical centers to serve guests and crew on board.

They are informed on the latest COVID-19 scientific status and trained on all relevant COVID-19 procedures.

We're enhancing our shipboard medical capabilities with the necessary staffing, medications, supplies, oxygen, equipment and procedures to triage and treat multiple COVID-19 cases across the full clinical spectrum including intensive care.

We'll also expand on board medical staffing roles to include staff responsible to oversee onboard aspects of public health and outbreak prevention and response.

The medical staff requirements and equipment on each ship will meet or exceed the guidelines from the American College of Emergency Physicians (ACEP) Healthcare Guidelines for Cruise Ship Medical Facilities.

How have you improved the onboard HVAC system?



We'll increase outside air to the maximum practical level for each HVAC unit, where and when technically possible.

HVAC units will be upgraded with F7 (MERV13) filters and some units will also have the latest generation ultraviolet light (UVC/UVGI) treatment systems installed to facilitate high quality recirculated air, where possible within design limitations.

The Medical Center will have HEPA filtration and will be maintained under negative pressure, which means the ventilation system will remove more air than it allows into the room.

Shore Visits & Excursions

Can I go ashore during my cruise vacation?



In accordance with CDC guidelines, fully vaccinated guests may choose to explore destinations independently on self-guided tours, and are recommended to wear masks while indoors, during transportation, and following the destination's health guidelines.

You can pre-purchase shore excursions through CruisePersonalizer at princess.com or on board using the MedallionClass app, digital portals, or stateroom TV, subject to availability and capacity restrictions. You must follow all COVID-19-related requirements, including physical distancing and mask-wearing, and stay with your cruise companions for the entire excursion. There could be additional restrictions based on local conditions. If your shore excursion is canceled by the company or the tour operator, or if you are denied from joining the tour, your shore excursion payment will be credited to your on-board account.

Unvaccinated guests will only be permitted to go ashore through shore excursions sold by or through Princess using tour operators who comply with our COVID-19 controls. Self-exploration or participation in shore excursions not sold through or operated by Princess will not be permitted.

If you or any members of your party refuse to comply with our COVID-19 policies and procedures, you won't be allowed to board the ship after going ashore. We may also take other steps that, in our sole discretion, we feel are necessary to protect the health and safety of our guests and team mates. If this happens, you won't be entitled to a refund, credit or compensation of any kind and will be responsible for all costs and fines, including (without limitation) travel expenses.

Post-Cruise

If my home country requires proof of a negative COVID-19 test result for re-entry following my cruise, will Princess administer and cover the cost of the test? ▼

Can I book an extended stay in the embarkation city, following my cruise? ▼

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More Flexibility & Less Worry

Learn about our health protocols, booking flexibility and peace of mind.



Flexibility So You Can Book with Confidence

Need to change your vacation plans? No problem.



The Princess Promise


We're so confident about our service, if you're not satisfied, we'll make it right.

Exhibit 6

UPDATEhide advisory Stay up-to-date on [cancelled cruises](#), [travel advisories](#) and [our Have Fun, Be Safe.™ health protocols](#).[Home](#) > [COVID-19 Legal Notices](#) > [COVID-19 Guest Protocols](#)**HAVE FUN. BE SAFE.™****COVID-19 Guest
Protocols**[Return to Service FAQs](#)[COVID-19 Refund and
Cancellation Policy](#)**HAVE FUN. BE SAFE. COVID-19 GUEST PROTOCOLS**

Carnival Cruise Line's **Have Fun. Be Safe.** protocols and procedures have been designed to maximize the health and safety of our guests and crew while delivering a fun and memorable vacation experience. Below are the measures currently planned for the **vaccinated cruises** referenced below.

**BOOKING**

All guests should carefully review pre-booking and pre-travel health advice on our website and [U.S. Centers for Disease Control and Prevention's \(CDC\) website](#)  and pay careful attention to all pre-cruise communications from Carnival.

**VACCINATION & TESTING STANDARDS**

In consultation with our medical experts, we've determined that by operating to meet the standards for a 95% vaccinated cruise, Carnival is able to provide the optimal guest experience while at the same time protect the health and safety of our guests, crew and the communities we visit. Until further notice, all our operations will meet this standard. We realize that this may not work for all guests, especially for the many families we love to sail. But for the time being, this is the best way for us to successfully restart our operations and maintain the confidence of the destinations that we visit, so we can deliver on our itineraries and guest experience.

Vaccinated cruises are available for guests who have received their final dose of an approved COVID-19 vaccine at least 14 days prior to embarkation day and have proof of vaccination. You will also need to provide proof of vaccination at the terminal in advance of boarding, as follows:

- Guests must bring their original vaccination record issued by the country's health authority that administered the vaccination (i.e., U.S. CDC's Vaccination Record Card). **Copies or photos are not accepted.**
- The name and birth date on the vaccination card must match the guest's travel documents and show the guest is fully vaccinated. Vaccine type, dates administered, and lot numbers must be clearly visible. **Vaccination dates must indicate the guest has completed the required doses no later than 14 days prior to the sailing date.**
- Alternatively, guests may present a digital COVID-19 Certificate (QR code acceptable) and a record of COVID-19 vaccination from a healthcare provider (original digital email accepted), personal electronic health record or government Immunization Information System record.

We recommend guests have the contact information (email and phone) immediately available of the healthcare provider or clinic site that issued the certificate, in order to validate the vaccination if needed. A vaccination registry site may also be used.

Guests are strongly encouraged to review their vaccination records and ensure they meet our standards prior to traveling to the cruise terminal to prevent a situation where they may not be able to cruise or be eligible for a refund.

Vaccinated guests on the 14-day Carnival Pride cruise from Baltimore will have to present the negative results of a pre-travel PCR test taken between 72 and 24 hours at embarkation, in addition to providing proof of vaccination. Guests on back to back cruises (excluding Alaska voyages), regardless of vaccination status, will be tested at the end of each voyage.

For cruises departing the U.S., the CDC requires both vaccines in a 2-dose series to be of the same type. They also accept mixing mRNA vaccines only (Pfizer and Moderna). No other vaccine combination meets the criteria to be considered fully vaccinated. For example, Canadian or other international guests who received a combination of AstraZeneca and Pfizer are considered unvaccinated by the CDC. Guests who are not fully vaccinated, according to these criteria, will be considered unvaccinated and need to apply for a vaccination exemption.

Exemptions to Vaccination Standards

Carnival will continue to welcome unvaccinated guests, including children under 12 who are not eligible for a vaccine. The application process has its own set of procedures that must be carefully followed. These exemptions for children and adults are not guaranteed and are capacity-controlled based on the total number of vaccinated guests on board.

Unvaccinated guests granted an exemption must abide by certain requirements and protocols, which include:

Testing

- Presenting a negative PCR COVID-19 test at check-in, taken between 72 and 24 hours prior to the sailing date, taking an antigen test at embarkation, and testing again within 24 hours of debarkation on all cruises longer than 4 days. We must also now provide testing information and reporting to the destinations we visit. A US\$150 per person charge will be assessed to the guest's onboard Sail and Sign account to cover the cost of testing, reporting and health and safety screenings. Children under two are exempt from testing requirements.
- In the event unvaccinated guests are in close contact with or exposed to any guest or crew members that test positive for COVID-19 during the cruise, you will be required to undergo additional testing and may be required to quarantine in your stateroom until our medical team determines it is safe for you to resume your cruise activities.

Travel Insurance Requirement — Florida and Texas Based Ships

- Effective with sailings departing July 31, 2021 from Florida, and August 2, 2021 from Texas, unvaccinated guests must also show proof of travel insurance coverage during check-in. This requirement is currently being waived for children under 12 who are ineligible for a vaccine. However, parents are advised that purchasing travel insurance for their children is strongly recommended. (See section below for full details on travel insurance requirements.)

Shore Visits and Excursions

It will be necessary to follow the health protocols for every port we visit, which are under the control of local government and subject to change without prior notice.

- There is no independent sightseeing in ports of call for unvaccinated guests, who may only debark if booked on a Carnival-sponsored bubble tour.
- Guests must follow all local protocols and we cannot guarantee that additional restrictions will not be imposed by local authorities in the destinations we visit. For example, based on our port agreement with San Juan, unvaccinated guests will have to remain on board during that call.
- Carnival-approved bubble tours are excursions that operate in a controlled environment. In the event you choose not to purchase a bubble tour, bubble tours are sold out, or cancelled due to weather, unvaccinated guests will have to remain on board for that call.
- Guests will be escorted from and to the ship, upon return from the shore excursion. No unscheduled stops are permitted (i.e. gift shops, bars, restaurants, etc.).
- Guests participating in a bubble tour, regardless of vaccination status, must follow all tour protocols and local guidance regarding testing/screening, mask wearing, physical distancing, etc.
- Guests who do not comply with the controlled environment of a bubble tour will be removed from the tour.
- In private ports of call, such as Half Moon Cay and Princess Cays, unvaccinated guests may participate in independent exploration or purchase any of our tours.

Please refer to our [Return to Service FAQs](#) for a complete list of our protocols and requirements, which continue to evolve and may change without prior notice.

A request for one of these capacity-managed exemptions must be submitted within 48 hours of making a new reservation. Requests will be processed after the booking is paid in full, in sailing date order, and once we have finalized the estimated vaccinated guest count.

If you are an unvaccinated guest, your reservation is not considered confirmed unless you receive an approved exemption, which will be issued within 14 days of sailing. Any unvaccinated guests whose exemptions are approved will be required to review and agree to all the restrictions and protocols listed above prior to boarding the ship.

If we are unable to approve the request, guests will have the option to cancel the unvaccinated guest(s) from a reservation, move to a future sailing date or cancel with a full refund to the original form of payment. Unfortunately, we cannot assist with expenses related to a denied exemption request, and guests assume all risks related to non-refundable travel costs (i.e., air fare, hotel).

We recognize that unvaccinated guests will face temporary restrictions during the initial phase of our restart, along with additional costs for testing and insurance and are optimistic these protocols will continue to evolve over time.

PRE-BOARDING INFORMATION: In order to manage our vaccinated sailings, it is very important for **all guests to be on the look-out for a one question pre-cruise vaccine attestation email which needs to be completed for every person on the reservation.** Guests are asked to update their profile on Carnival.com with their current contact information as we will be communicating through a series of emails. Please read all our correspondence and complete all requests for pre-boarding information. Failure to comply with pre-cruise information requests on a timely basis will result in cancellation.

NOTE: On Carnival Miracle from Seattle and the 14-day Carnival Pride sailing on 10/31/21 from Baltimore, vaccine exemptions will only be accommodated as required by law.



TRAVEL INSURANCE REQUIREMENT FOR UNVACCINATED GUESTS – FLORIDA & TEXAS BASED SHIPS*

- Effective with sailings departing July 31, 2021 from Florida, and August 2, 2021 from Texas, unvaccinated guests must also show proof of travel insurance coverage during check-in. This requirement is currently being waived for children under 12 who are ineligible for a vaccine. However, parents are advised that purchasing travel insurance for their children is strongly recommended.
- Each unvaccinated guest must provide proof of a valid travel insurance policy at the time of check-in that has a minimum of US\$10,000, per person, in medical expense coverage and US\$30,000 coverage for emergency medical evacuation and without COVID-19 exclusions.
- The insurance policy must name the unvaccinated guest as the policy holder or beneficiary and may be purchased from a travel insurance company of the guest's choosing or through Carnival Vacation Protection, which includes the required coverage.
- Please note Carnival Vacation Protection is available for purchase until 14 days prior to sailing for guests residing in the U.S. (excluding New York and Puerto Rico), Canada (excluding Quebec), U.S. Virgin Islands (St. Thomas, St. John and St. Croix) and American Samoa. (Note: your booking must be paid in U.S. currency.) Should you wish to purchase Carnival Vacation Protection, please call 1-800-CARNIVAL, your Personal Vacation Planner or your travel advisor.
- Unvaccinated guests without the required proof of insurance will not be permitted to sail and no refund will be provided.

* Based on requirements of certain destinations. Some destination ports to which we sail are operated by Carnival affiliated entities under government concessions or licenses.



ENHANCED HEALTH SCREENINGS

All guests will be asked to complete an online health questionnaire 72 hours prior to sailing and undergo enhanced pre-embarkation health screenings, which will include confirmation of their health screening responses, validation of their vaccination documents and any required COVID-19 testing.

We will refer anyone with signs and symptoms of COVID-19, or who are identified at-risk, for additional medical screening before allowing them to board. Secondary screenings (and health checks throughout the cruise) will be performed when necessary. Contact tracing is planned for every cruise.

Any guest who tests positive at embarkation, and their traveling companions in the same stateroom along with other close contacts, will not be able to cruise and will be provided a future cruise credit. (A close contact is any individual who has been within 6 feet of an infected/symptomatic person for a cumulative total of 15 minutes or more over a 24-hour period within 14 days prior to sailing.)

If you traveled by air to join your cruise and test positive at embarkation and are not able to cruise – or test positive during the debark testing – you may be required to quarantine before traveling home. While Carnival will help make quarantine arrangements, all guests are responsible for expenses associated with quarantine.



MASKS & PHYSICAL DISTANCING

Vaccinated guests on a vaccinated cruise do not have to wear face masks (except in the medical center) or maintain physical distancing while on board.

All guests must wear masks during the entire embarkation and debarkation process (at the home port and ports of call), during water

shuttle operations, any Carnival-approved shore excursions and while on any transportation vehicles. Additionally, when going ashore, guests must be prepared to follow all local guidance regarding masks and physical distancing. The status of local guidelines will be shared with guests prior to debarkation at the destination.

NOTE: Alaska health officials monitoring the situation ashore have strongly recommended that all guests, including those fully vaccinated, wear a face mask at all times while indoors and also outside when physical distancing cannot be maintained. U.S. regulations require all persons to wear a face mask on public transportation including buses, trains, vans, airports, aircraft and dayboats.

Unvaccinated Guests

We recommend that all unvaccinated guests 2 years of age and older wear masks when indoors or not in their staterooms. Masks will be required for unvaccinated guests in enclosed areas of the ship such as the piano bar, arcade, spa, salon, casino, Fun Shops and medical center. Additionally, masks are required at any indoor activity with children under 12 years, (i.e., Build-A-Bear®, Family Harbor, Sky Zone®).

It is recommended that unvaccinated guests maintain physical distancing as follows:

- Indoors – Remain at least 5 feet from others not in your cruise companion group. As such, we encourage you to take the stairs whenever possible, if you are able to do so.
- Outdoors – Remain at least 3 feet from others when not wearing a mask and not in your cruise companion group.



YOUTH PROGRAMS

Camp Ocean™: Supervised children's programs for children under the age of 12 in Camp Ocean will not be offered at this time.

Circle "C"® & CLUB O2®: Unvaccinated youth and teenagers will not be permitted to participate in supervised Circle "C" and CLUB O2 youth programs.



SAFE SHORESIDE EXPERIENCES

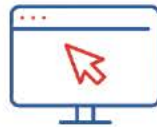
Vaccinated guests may participate in Carnival operated tours and independent sightseeing. It will be necessary to follow the health protocols for every port we visit, which are under the control of local authorities and subject to change without prior notice. Guests must come prepared to follow local guidance pertaining to mask wearing, physical distancing, testing/health screenings, etc.

NOTE: Our destination requirements continue to evolve and based on our port agreement with San Juan, unvaccinated guests will have to remain on board during that call.



HEALTHY ONBOARD ENVIRONMENT

Please help us maintain a healthy onboard environment by using the hand-washing sinks and hand sanitizer dispensers at venue entrances and in high-traffic areas throughout the ship. We will also need guests to follow our guidance about the ways to stay healthy on board and when ashore, through daily programming, entertainment systems, announcements, in-stateroom literature, and the Carnival HUB App.



ONLINE CHECK-IN

Due to new embarkation processes, all guests will need to complete Online Check-In and select an Arrival Appointment. Online Check-In is available for Suite, Platinum and Diamond guests at 16 days prior to sailing; general access begins at 14 days prior to sailing. It is important that guests arrive on a timely basis as early arrivals cannot be accommodated and will be asked to return at their assigned time. With everyone's cooperation, we can work together to guarantee an on-time departure and the start of your vacation!



CARNIVAL PLANS TO OPERATE THE FOLLOWING SAILINGS UNDER THE VACCINATED CRUISE STANDARDS:

We will be providing more details directly to guests on guidelines and protocols.



- Carnival Vista® from Galveston; Sailings starting July 3, 2021
- Carnival Horizon® from Miami; Sailings starting July 4, 2021
- Carnival Breeze® from Galveston; Sailings starting July 15, 2021
- Carnival Miracle® from Seattle; Sailings July 27 through September 14, 2021
- Mardi Gras™ from Port Canaveral; Sailings starting July 31, 2021
- Carnival Magic® from Port Canaveral; Sailings starting August 7, 2021
- Carnival Sunrise® from Miami; Sailings starting August 14, 2021
- Carnival Panorama® from Long Beach; Sailings starting August 21, 2021
- Carnival Glory® from New Orleans; Sailings starting September 5, 2021

- Carnival Pride® from Baltimore; Sailings starting September 12, 2021
- Carnival Dream® from Galveston; Sailings starting September 19, 2021
- Carnival Miracle® from Long Beach; Sailings starting September 27, 2021
- Carnival Conquest® from Miami; Sailings starting October 8, 2021
- Carnival Freedom® from Miami; Sailings starting October 9, 2021
- Carnival Elation® from Port Canaveral; Sailings starting October 11, 2021
- Carnival Sensation® from Mobile; Sailings starting October 21, 2021


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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

**NORWEGIAN CRUISE LINE HOLDINGS
LTD.;**

Plaintiff,

v.

SCOTT A. RIVKEES, M.D., State Surgeon
General and Head of the Florida Department of
Health, in his official capacity;

Defendant.

Case No. 1:21-cv-22492-KMW

SECOND DECLARATION OF DR. STEPHEN OSTROFF

I, Dr. Stephen Ostroff, declare as follows:

1. I am over the age of eighteen (18) years and am competent to make the statements contained herein.

2. I was a member of the Healthy Sail Panel. The Panel issued its advice to cruise operators on September 21, 2020. Our recommendations were rooted in the best scientific and public health information available at that time. We recognized that our understanding and knowledge of SARS-CoV-2 was evolving almost daily and would continue to evolve. Therefore, the cruise operators' plans would need to evolve to incorporate new science, technologies, and preventive measures. The Panel found that preventing or minimizing SARS-CoV-2 from entering the ship is the single most important step that can be taken to reduce risk of an outbreak on board. Accordingly, the Panel noted that health screenings and exclusions policies are critical. The second critical preventative goal is to minimize transmission of the virus if it should make it on board. Also important is reducing the severity of illness of anyone who contracts COVID-19 during the cruise and making sure that cruise ships are properly equipped to treat it. The Panel encouraged cruise operators to stay abreast of developments in the science, technologies, and

preventive measure, and modify their safety protocols as appropriate to ensure the highest level of safety possible for passengers, crew, and port destinations.

3. At the time the Panel issued its recommendations, we could not predict when vaccines would become available or how effective they would be to prevent disease and reduce viral transmission. The FDA only issued the first emergency use authorization for a COVID-19 vaccine over two months after the Panel's written recommendations. After the written recommendations were issued, the Panel continued to meet and deliberate. There were extensive discussions of utilization of the available vaccines for both passengers and crew. There were also discussions of which of the Panel's earlier recommendations could be modified or removed in the setting of high levels of vaccination. The Panel determined that the greatest safety margin was for there to be high levels of vaccination for anyone on board the ship and strongly endorsed universal vaccination.

4. Today, full vaccination is the current state of the art for preventing COVID-19, minimizing transmission and reducing disease severity. As recently stated by the CDC Director, this has become a pandemic of the unvaccinated. The best way to ensure maximum health and safety related to COVID-19 on board cruises is to require all crew and passengers to be fully vaccinated prior to boarding.

5. The pandemic situation in the U.S. has changed dramatically in recent weeks, especially in Florida, which has become a hotspot for COVID-19. The incidence of disease in the United States has increased over 480% in the past month from a 7-day average of 12,857 cases per day to a 7-day average of 62,161 cases per day. The increase in incidence of disease in Florida is closer to 780% in the same time frame – from a 7-day average of 1,601 cases per day to a 7-day average of 12,496 cases per day. There has been a 438% jump in COVID-19

hospitalizations in Florida from 1,852 hospitalized patients on June 26th to 8,123 hospitalized as of July 26th. The largest number of individuals hospitalized in Florida at any point in the pandemic occurred about a year ago at 11,969 patients. Based on current trends, Florida may pass that record in the next few weeks. Florida now accounts for 20% of all new cases in the U.S. The test positivity rate in some parts of Florida is as high as 25% of tests administered. Florida is currently one of only three states in the country where every county is considered to have a high rate of transmission of COVID-19. From my prospective, Florida is right now confronting a COVID-19 crisis and should be taking all necessary measures to reduce the incidence of disease, including severe outcomes, and impact on the health care system. In my view, prohibiting effective safeguards against COVID-19, such as requiring vaccinations and documentation of same before passengers board a cruise ship is inconsistent with that goal.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 29, 2021



DR. STEPHEN OSTROFF