

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

CASE NO.: _____

MARTHA PHILLIPS and JERRY PHILLIPS,
on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

CLASS ACTION COMPLAINT

NCL CORPORATION LTD d/b/a
NORWEGIAN CRUISE LINES,
a foreign corporation,

JURY DEMAND

Defendant.

_____ /

COMPLAINT AND DEMAND FOR JURY TRIAL¹

Plaintiffs Martha Phillips (“Martha”) and Jerry Phillips (“Jerry”) (collectively, “Plaintiffs”) bring this action against Defendant NCL Corporation LTD d/b/a Norwegian Cruise Lines (“Norwegian”) on behalf of themselves and a putative class of other similarly situated consumers who paid a concealed kickback to Norwegian when they purchased travel insurance policies through Norwegian’s so-called “Booksafe Travel Protection Plan.”

INTRODUCTION

1. Over the past few years, a number of states and insurance regulators have conducted extensive investigations into the travel insurance industry, including its use of “distribution participants” to solicit the purchase of travel insurance. These regulators have identified a number

¹ On August 24, 2018, Undersigned Counsel already filed a proposed class action against Carnival Cruise Lines, Case No. 1:18-cv-23463-KMW, seeking redress for consumers regarding almost identical deceptive and unfair business practices regarding the sale of these travel insurance policies. That case is pending before the Honorable Kathleen M. Williams. Accordingly, Undersigned Counsel has marked this case as related to that action, and will be moving to consolidate them all in due course.

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of unfair and deceptive marketing and sales tactics used to sell “travel insurance,” including the payment of undisclosed kick-backs to the “distribution participant” which are passed on to the consumer in the form of inflated premiums for the travel insurance product. These undisclosed kick-backs are further concealed by the distribution participant’s practice of bundling the insurance product together with other, non-insurance products for a single price, while at the same time giving the impression that the insurance product is being purchased by the consumer on a pass-through basis from the insurer.

2. As a result of the regulatory investigations into these practices, various insurance companies offering travel insurance products, including specifically Transamerica Casualty Insurance Company (“Transamerica”) and Nationwide Mutual Insurance Company (“Nationwide”), have entered into multi-state regulatory settlement agreements agreeing to cease these unfair and deceptive practices. However, none of these regulatory agreements have afforded relief directly to victimized consumers, nor have they prevented distribution participants, such as Norwegian, from continuing to engage in these highly misleading – but lucrative – business practices.

3. Very recently, Senator Edward J. Markey of Massachusetts released a report on his investigation into many of these unfair and deceptive practices in the context of the online travel insurance industry.² The criticisms voiced in Senator Markey’s report include concerns that online travel insurance solicitations (1) offer only bare-bones travel insurance coverage with extensive

² Flyer Beware: Is Travel Insurance Worth It?: Senator Markey releases new report that details questionable travel insurance marketing practices for policies that overpromise and under-deliver, (August 21, 2018), <https://www.markey.senate.gov/news/press-releases/flyer-beware-is-travel-insurance-worth-it> (last accessed August 24, 2018); Flyer Beware: Is Travel Insurance Worth It? (August 2018) <https://www.markey.senate.gov/imo/media/doc/Flyer%20Beware%20Report.pdf> (last accessed August 24, 2018).

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exclusions; (2) utilize an online marketing process that encourages and pressures consumers to purchase travel insurance policies; and (3) generate undisclosed fees that inflate the price of every travel insurance policy sold.

4. As alleged in detail below, Norwegian has engaged in precisely these unfair and deceptive practices on a nationwide basis from its headquarters in Miami, Florida, through its online marketing and selling of travel insurance policies in its “Booksafe Travel Protection Plan” (“BTPP”). The purpose of this action is: (1) to compensate Plaintiffs and other victimized consumers for Norwegian’s unfair and deceptive practices as a distribution participant in the sale of travel insurance, and (2) to put an end to Norwegian’s use of such unfair and deceptive sales practices.

5. Specifically, Norwegian’s BTPP includes the offer of a travel insurance policy (“Travel Insurance Policy”), issued (a) before October 1, 2017, by Transamerica or its affiliates (“the Transamerica Policy”) and (b) after October 1, 2017 by Nationwide or its affiliates (“the Nationwide Policy”). Norwegian’s website clearly states that the Travel Insurance Policy is independently underwritten by Transamerica or later Nationwide and through hyperlinks that direct the consumer to a non-Norwegian website (<https://affinitytravelcert.com/>) which states on the website header “Aon Affinity” (“Aon”), the managing general agent for Transamerica and Nationwide.

6. A reasonable consumer, like Plaintiffs, would thus believe that they are contracting directly with Transamerica or Nationwide for the purchase of the Travel Insurance Policy, and that the premium for that Travel Insurance Policy is passed through to Transamerica or Nationwide by Norwegian from the price of the BTPP.

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7. In reality, Norwegian receives an undisclosed kickback from Transamerica, Nationwide or Aon, in the form of concealed commission for every Travel Insurance Policy sold through its BTPP. Norwegian unfairly and deceptively conceals the kickback and the fact that consumers are paying inflated prices for the Travel Insurance Policies to pay for that kickback.

8. Plaintiffs accordingly seek relief for themselves and on behalf of a putative nationwide class of other similarly situated consumers who purchased a Travel Insurance Policy through Norwegian's BTPP ("the Class") under the Florida Deceptive and Unfair Trade Practices Act ("FDUTPA"), Fla. Stat. §§ 501.201–213. Alternatively, Plaintiffs seek relief for a statewide subclass under FDUTPA. Finally, Plaintiffs also seek declaratory and injunctive relief to put an end to Norwegian's unfair and deceptive kickback practices.

9. Plaintiffs are not suing under any cruise ticket contract with Norwegian; this action solely relates to Norwegian's business practices concerning its omissions relating to independent sale of the Travel Insurance Policies and the remuneration Norwegian receives as a distribution participant in that sale.

PARTIES, JURISDICTION, AND VENUE

10. Plaintiff Martha is, and at all material times was, an individual who resides in and is a citizen of Peach County, Georgia. Martha is over the age of 18 and is *sui juris*. Martha purchased Travel Insurance Policies through Norwegian's BTPP on or about April 12, 2017 and September 18, 2018.

11. Plaintiff Jerry is, and all material times was, an individual who resides in and is a citizen of Peach County, Georgia. Jerry is over the age of 18 and is *sui juris*. Jerry purchased Travel Insurance Policies through Norwegian's BTPP on or about April 12, 2017 and September 18, 2018.

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12. Defendant Norwegian, is a corporation and citizen of Florida, with its self-proclaimed “world headquarters” and principal place of business located 7665 Corporate Center Drive, Miami, FL, 33126. Norwegian does business regularly throughout the United States, including and from within the state of Florida.

13. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(d)(2)(A) because this is an action for a sum exceeding \$5,000,000.00, exclusive of interest and costs, and in which at least one class member is a citizen of a state different than the defendant.

14. This Court has personal jurisdiction over Norwegian because it continuously and systematically operates, conducts, engages in, and carries on business in Florida. Upon information and belief, Norwegian’s United States business operations (including specifically its functioning as a distribution participant for travel insurance) are controlled, directed, and for the most part carried out in Miami, Florida.

15. Venue is proper in this Court, pursuant to 28 U.S.C. § 1391(b) and § 1391(c) because Norwegian resides in this district for purposes of the statute.

16. Norwegian is subject to the personal jurisdiction of this Court for purposes of this action.

COMMON ALLEGATIONS

17. Norwegian operates at least 15 ships with a combined capacity for 46,555 passengers, sailing to destinations including the Caribbean, Cuba, the Bahamas, Mexican Riviera, Alaska, Hawaii, the Pacific Coast, Panama Canal, Bermuda, Canada, New England, South America, Australia, New Zealand, Europe, Asia, and Florida.³ In 2018, Norwegian was estimated

³ Gene Sloan, *The fleet and home ports of Norwegian Cruise Line, by the numbers*, USA Today, September 5, 2017, <https://www.usatoday.com/story/travel/cruises/2017/09/05/fleet-and-home-ports-norwegian-cruise-line-numbers/632134001/> (last visited Sep 19, 2018).

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to hold an 8.4% share of cruise industry revenue (or \$3,898,000,000.00) and 8.7% of passengers (or 2,269,800).⁴

18. When a consumer visits Norwegian's website, <http://www.NCL.com>, the site allows the consumer to select her preferred destination and travel dates.

19. At all material times, before completing their cruise purchases Norwegian's website prompts customers to elect whether to purchase the BTPP, which necessarily includes a Travel Insurance Policy. A copy of the BTPP along with specimens of the Transamerica Policy and the Nationwide Policy are attached as Composite Exhibit A.

20. The Transamerica Policy and the Nationwide Policy each offer extremely limited coverage, operating as little more than an excess policy that pays secondary to "Other Valid and Collectible Group Insurance" or "indemnity." *See* Composite Exhibit A.

21. Norwegian marketed the BTPP and the Travel Insurance Policies to its customers in a uniform fashion, such that when purchasing travel insurance the customer is exposed to the same marketing language soliciting the sale of the Travel Insurance Policy.

22. In making the Travel Insurance Policy available to customers on its website through the BTPP, Norwegian does not hold itself out as the seller or issuer of the Travel Insurance Policy. Norwegian simply facilitates the sale of the Travel Insurance Policy as a distribution participant, by including it in the BTPP.

23. At the same time Norwegian marketed the BTPP to its customers, however, it was receiving a kickback in the form of an undisclosed, unearned commission on the sale of the Travel Insurance Policies. Norwegian deliberately omitted any disclosure of the kickback to Plaintiffs and

⁴ <https://www.cruisemarketwatch.com/market-share/> (last accessed September 19, 2018).

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the other members of the Class. Norwegian's marketing practices were and are deceptive and unfair.

24. Norwegian furthermore uses the BTTP to further conceal its undisclosed profits in the sale of the Transamerica Policies and Nationwide Policies, by bundling the insurance and non-insurance products into a single price package. Specifically, the BTTP is an amalgamation of three separate products offered for sale by three separate entities:

- The Cancellation Fee Waiver Program, a non-insurance product provided by Norwegian. If a purchaser canceled her cruise for a covered reason, Norwegian would waive its cancellation fee and refund the unused portion of the cruise.
- The Travel Insurance Policy an insurance product provided by Transamerica or Nationwide.
- The Carefree Worldwide Emergency Assistance Program, a non-insurance product provided by On Call International.

25. Although the BTTP was and is sold for one consolidated price, it was and is marketed as being comprised of three separate products, only one of which was provided by Norwegian, while the other two were provided by two different entities. Therefore, a reasonable consumer was misled into believing that the price she pays for the BTTP is comprised of three "pass-through" charges, which Norwegian simply collects and passes-through to each respective provider: a charge from Norwegian for the Cancellation Fee Waiver, a pass-through charge from Transamerica or Nationwide for the Travel Insurance Policy, and a pass-through charge from On Call International for the Travel Assistance Program.

26. By bundling the Travel Insurance Policy into the BTTP, Norwegian is able to further conceal the fact that consumers were being vastly overcharged for the Travel Insurance Policy due to the kickbacks Norwegian received for every Transamerica Insurance Policy sold through its BTTP.

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27. At all material times, Norwegian aggressively marketed the BTTP to its customers while concealing its profit interest in the sale of the Travel Insurance Policy. These marketing practices were deceptive and unfair.

28. For example, at all material times, before a customer can purchase a cruise ticket, Norwegian's website required customers to make an election to purchase the BTTP (including the Travel Insurance Policy) in a completely separate transaction. Upon information and belief, until October 2017, if the customer refused to make an election regarding the BTTP, then she could not proceed with purchasing her cruise ticket. The customer was forced to check either a "yes" or "no" box regarding purchase of the BTTP. The "yes" option was highlighted in bold type and placed above the box for "no," which did not appear in bold type. The customer could not simply ignore the offering and proceed to her ticket purchase transaction.

29. Upon information and belief, since October 2017, Norwegian's website still appears to require customers to make this election. Norwegian's website allows the customer to proceed with purchasing her cruise ticket without making an election, but the apparently "mandatory" choice still appears to the customer on Norwegian's website just as it did before October 2017, with the "yes" option highlighted in bold type and placed above the box for "no," which does not appear in bold type.

30. Despite aggressively marketing the BTTP on its website, Norwegian has never disclosed that it receives a profit based on the sale of the Travel Insurance Policy. Indeed, in its BTTP marketing materials, Norwegian differentiated that while the Cancellation Fee Waiver Program is "provided by Norwegian Cruise Lines," the Travel Insurance Policy is underwritten by Transamerica or Nationwide, without more.

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31. Through these misleading marketing materials, objective consumers would reasonably infer that when they purchased a BTTP, the funds to cover the Travel Insurance Policy's cost were transmitted to Transamerica, who Norwegian identified as the company offering the Transamerica Policy for sale to the customer, or to Nationwide, who Norwegian identifies as the company offering the Nationwide Policy for sale to the customer.

32. In reality, and completely unbeknownst to the consumer, the price charged for the Transamerica Policy was inflated because, in addition to charging the premium for the Transamerica Policy, Norwegian charged and received the undisclosed, unearned commission from Transamerica in exchange for making Transamerica the exclusive travel insurance provider for the BTTP. By selling the Transamerica Policy through the BTTP, Norwegian created for itself a massive hidden profit-center. Norwegian continues these unfair and deceptive practices by selling the Nationwide Policy through the BTTP.

33. In short, Norwegian has, through omission, engaged in a pattern of unlawful profiteering, deceit, and self-dealing with regard to the Travel Insurance Policies.

34. Recently, travel insurers around the country, including both Transamerica and Nationwide, have entered into multi-state regulatory settlement agreements regarding their unfair and deceptive practices in the marketing of travel insurance. Attached as Composite Exhibit B are copies of the multi-state regulatory agreements Transamerica entered into on December 15, 2017 and Nationwide entered into on January 3, 2018.

35. A condition of Transamerica's multi-state regulatory agreement required Transamerica to exit the travel insurance industry entirely for five years as a result of the unfair and deceptive business practices Transamerica employed and allowed its distribution partners, such as Norwegian, to employ.

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36. Under the regulatory settlements, the unfair and deceptive practices travel insurers have agreed will no longer be used include:

- combining and packaging the cost of Assistance Services or Travel Cancellation Fee Waivers with the cost of Travel Insurance in its rate filings and in the sale of Travel Insurance to consumers;
- allowing Distribution Participants to combine and package the cost of Assistance Services or Travel Cancellation Fee Waivers with the cost of Travel Insurance when offering these products and services for sale; and
- charging a separate fee for travel insurance in addition to the travel insurance premium or add any charges or fees for any of the travel insurance products or related services without a separate written agreement with the insured.

See Composite Exhibit B.

37. Throughout the Class Period, Norwegian engaged in these practices in the marketing and sale of the Travel Insurance Policy through Norwegian's BTTP. Since Nationwide and Transamerica entered into these multi-state regulatory agreements, Norwegian has in some instances modified its website's functionality and marketing materials to attempt to conform to their requirements. Discovery will reveal the timing of these changes and past versions of Norwegian's website that utilized highly deceptive and unfair tactics to mislead consumers into purchasing the Travel Insurance Policy so that Norwegian could unfairly profit at consumers' expense.

38. Although Transamerica has exited the travel insurance industry as of December 31, 2017, since October 2017 Norwegian has offered the Nationwide Policy in its BTTPs, still utilizes the deceptive and unfair marketing and sales practices outlined in this Complaint, and is still receiving substantial kickbacks for every Travel Insurance Policy sold through its BTTP.

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39. Norwegian has never disclosed to Plaintiff, or any of the class members, the true nature of its relationship with Transamerica or Nationwide. Specifically, Norwegian never disclosed the fact that it received a substantial kickback on the Transamerica Policy that Norwegian offered for sale with the BTTP. Nor has Norwegian ever disclosed that it is still receiving substantial kickbacks on every Travel Insurance Policy it sells.

40. The BTTP (and certainly the Travel Insurance Policies) would have been offered to Plaintiffs at a lower price but for the kickbacks paid to Norwegian.

PLAINTIFF-SPECIFIC ALLEGATIONS

i. Martha and Jerry Phillips

41. On or about April 12, 2017, Plaintiffs purchased a Norwegian BTTP containing the Transamerica Policy for \$218.00, online through Norwegian's website. *See* Exhibit C. On or about September 18, 2018, Plaintiffs purchased a Norwegian BTTP containing the Nationwide Policy for \$520.00. *See* Exhibit D.

42. On the dates that Plaintiffs purchased the BTTPs, they did not know about Norwegian's kickback scheme. Plaintiffs would not have purchased the BTTPs had they known that the price of the BTTPs or Travel Insurance Policies were inflated because of the kickbacks from Transamerica, Nationwide or Aon to Norwegian in exchange for placement as the exclusive travel insurance providers for Norwegian. Instead, Plaintiffs would have purchased a stand-alone insurance policy from another insurer, or self-insured.

43. The BTTP (and certainly the Travel Insurance Policies) would have been offered at a lower price but for the kickback to Norwegian.

44. As a consequence of purchasing the Travel Insurance Policies, Plaintiffs lost money in the form of the overcharges paid as a result of the kickbacks to Norwegian.

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CLASS ACTION ALLEGATIONS

45. Plaintiffs bring this Complaint as a class action pursuant to Federal Rule of Civil Procedure 23.

A. Class Definitions

46. Plaintiffs bring this action against Norwegian on behalf of themselves and all other persons similarly situated. Plaintiffs seek to represent the following nationwide class:

All persons who, within the applicable limitations period, purchased a Travel Insurance Policy through Norwegian's Booksafe Travel Protection Plan. Excluded from this class are Norwegian, its affiliates, subsidiaries, agents, board members, directors, officers, and/or employees ("the Class").

47. Alternatively, Plaintiffs seek the certification of the following subclass for residents of the state of Florida:

i. Florida subclass:

All Florida persons who, within the applicable limitations period, purchased a Travel Insurance Policy through Norwegian's Booksafe Travel Protection Plan. Excluded from this class are Norwegian, its affiliates, subsidiaries, agents, board members, directors, officers, and/or employees.

48. Plaintiffs reserve the right to modify or amend the definition of the proposed Class before or after the Court determines whether such certification is appropriate. In particular, Plaintiffs may amend the complaint to join in additional consumers from other states in order to seek the certification of additional statewide classes or subclasses.

49. Norwegian has subjected Plaintiffs and the members of the Class to the same unfair, unlawful, and deceptive practices and harmed them in the same manner. The conduct described above was Norwegian's standardized and uniform business practice.

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B. Numerosity

50. The individual class members are so numerous that joinder of all members in a single action is impracticable. Norwegian operates thousands of cruises a year, and upon information and belief, it has sold thousands of Travel Insurance Policies during the Class Period.

51. The individual Class members are ascertainable, as the names and addresses of all Class members can be identified in the business records maintained by Norwegian. The precise number of Class members number at least in the thousands and can only be obtained through discovery, but the numbers are clearly more than can be consolidated in one complaint such that it would be impractical for each member to bring suit individually. Plaintiffs do not anticipate any difficulties in the management of the action as a class action.

C. Commonality/Predominance

52. Common questions of law and fact exist as to Plaintiffs' and the Class members' claims. These common questions predominate over any questions solely affecting individual Class members, including, but not limited to, the following:

- a. Whether Norwegian engaged in a deceptive and unfair business practice by omitting disclosure of its financial interest in offering and selling the Travel Insurance Policies;
- b. Whether Norwegian further concealed the omission by bundling the insurance and non-insurance products to lead the reasonable consumer to believe it was a pass-through charge for the Travel Insurance Policies;
- c. Whether Norwegian received undisclosed kickbacks, commissions, or fees from the sale of the Travel Insurance Policies;
- d. Whether and to what extent Norwegian's conduct has caused injury to the Plaintiffs and the other members of the Class;
- e. Whether and to what extent Norwegian's unfair and deceptive practices are ongoing such that declaratory and/or injunctive relief are warranted.

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D. Typicality

53. Plaintiffs are members of the Class they seek to represent. Plaintiffs' claims are typical of the respective Class claims because of the similarity, uniformity, and common purpose of Norwegian's challenged misconduct conduct. Each Class member has sustained, and will continue to sustain, damages in the same manner as Plaintiffs as a result of Norwegian's challenged practices.

E. Adequacy of Representation

54. Plaintiffs are adequate representatives of the Class they seek to represent and will fairly and adequately protect the interests of the Class members. Plaintiffs are committed to the vigorous prosecution of this action and has retained competent counsel, highly experienced in litigation of this nature, to represent them. There is no hostility between Plaintiffs and the unnamed Class members. Plaintiffs anticipate no difficulty in the management of this litigation as a Class action.

55. To prosecute this case, Plaintiffs have chosen the undersigned law firms, which have the financial and legal resources to meet the substantial costs and legal issues associated with this type of consumer class litigation.

F. Requirements of Fed. R. Civ. P. 23(b)(3)

56. The questions of law or fact common to Plaintiffs' and each Class member's claims predominate over any questions of law or fact affecting only individual members of the class. All claims by Plaintiffs and the unnamed Class members are based on the common marketing and sales practices Norwegian utilized in its sale of the Travel Insurance Policies to Plaintiffs and the unnamed Class members.

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57. Common issues predominate when, as here, liability can be determined on a class-wide basis, even when there will be some individualized damages determinations.

58. As a result, when determining whether common questions predominate, courts focus on the liability issue, and if the liability issue is common to the class as is in the case at bar, common questions will be held to predominate over individual questions.

G. Superiority

59. A class action is superior to individual actions in part because of the non-exhaustive factors listed below:

- a. Joinder of all Class members would create extreme hardship and inconvenience for the affected customers as they reside throughout the country;
- b. Individual claims by Class members are impractical because the costs to pursue individual claims exceed the value of what any one Class member has at stake. As a result, individual Class members have no interest in prosecuting and controlling separate actions;
- c. There are no known individual Class members who are interested in individually controlling the prosecution of separate actions;
- d. The interests of justice will be well served by resolving the common disputes of potential Class members in one forum;
- e. Individual suits would not be cost effective or economically maintainable as individual actions; and
- f. The action is manageable as a class action.

H. Requirements of Fed. R. Civ. P. 23(b)(1) & (2)

60. Prosecuting separate actions by or against individual Class members would create a risk of inconsistent or varying adjudications with respect to individual Class members that would establish incompatible standards of conduct for the party opposing the Class.

61. Norwegian has acted or failed to act in a manner generally applicable to the Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

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COUNT I

VIOLATION OF FLORIDA DECEPTIVE AND UNFAIR TRADE PRACTICES ACT

(Alleged on behalf of the Class, or alternatively a Florida Subclass)

62. Plaintiffs re-allege paragraphs 1 through 61 as if fully set forth herein and further allege the following.

63. This Count is brought pursuant to the Florida Deceptive and Unfair Trade Practices Act (“FDUTPA”).

64. FDUTPA, section 501.201, *et seq.*, Florida Statutes, prohibits “unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce.” § 501.204, Fla. Stat.

65. At all material times, Plaintiffs and all members of the Class were consumers within the meaning of Section 501.203, Fla. Stat., and are entitled to relief under FDUTPA in accordance with Section 501.211, Fla. Stat.

66. At all times material, Norwegian conducted trade and commerce within the meaning of Section 501.203, Fla. Stat.

67. Norwegian’s conduct of utilizing deceptive and unfair marketing and sales practices and charging inflated amounts for the Travel Insurance Policies to Plaintiffs and the other members of the Class violates FDUTPA. Norwegian’s challenged conduct was conceived, devised, planned, implemented, approved, and executed within the State of Florida, which has an interest in prohibiting violations of FDUTPA by defendants operating from within the State.

68. Norwegian is not a bank or savings and loan association regulated by the Florida Office of Financial Regulation of the Financial Services Commission. Further, it is not a bank or savings and loan association regulated by federal agencies.

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69. At all material times, Norwegian engaged in unlawful schemes and courses of conduct through one or more of the unfair and deceptive acts and practices:

- a. Taking kickbacks, in the form of, among other things, unearned and undisclosed commissions from the sales of the Travel Insurance Policies in exchange for making Transamerica (before October 1, 2017) and/or Nationwide (from October 1, 2017 on) the exclusive travel insurance provider for the BTTP, and therefore charging an inflated price for the cost of the Travel Insurance Policies.
- b. Bundling the Travel Insurance Policies with non-insurance products into the BTTP and charging a single price for the BTTP, so consumers did not know what amounts they were paying for each of the three bundled products/services; and
- c. Presenting the BTTP to create the impression that it was comprised of three pass-through charges: (1) the cost of the Cancellation Fee Waiver, (2) the cost of the Travel Insurance Policy, and (3) the cost of Travel Assistance, even though Norwegian took an unearned, undisclosed commission from the inflated price of the Travel Insurance Policy.

70. The concealment and omissions of material facts and deceptions alleged in the foregoing paragraphs occurred in connection with Norwegian's trade and commerce in Florida.

71. Plaintiffs and the other members of the Class have sustained actual damages in the form of Norwegian's kickback as a direct and proximate result of Norwegian's unfair and unconscionable practices. Section 501.211(2), Florida Statutes, provides Plaintiff and the other members of the Class a private right of action against Norwegian and entitles them to recover their actual damages, plus attorneys' fees and costs.

72. Norwegian still utilizes many of the deceptive acts and practices described above and is still collecting a significant unearned commission from every Travel Insurance Policy sold. Plaintiffs and the other members of the Class have suffered and will continue to suffer irreparable harm if Norwegian continues to engage in such deceptive, unfair, and unreasonable practices. Section 501.211(1) entitles Plaintiffs and the Class to obtain declaratory and injunctive relief to put an end to Norwegian's unfair and deceptive scheme.

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WHEREFORE, Plaintiffs, on behalf of themselves and the Class, demand judgment against Norwegian for compensatory damages, pre- and post-judgment interest, attorneys' fees, injunctive and declaratory relief, costs incurred in bringing this action, and any other relief as this Court deems just and proper.

PRAYER FOR RELIEF

Plaintiffs accordingly respectfully request that the Court enter its Orders and Judgment:

- a. Certifying this action to be a proper class action maintainable pursuant to Rule 23(a) and Rule 23(b)(1) and (2), or Rule 23(b)(3), Federal Rules of Civil Procedure, and appointing Plaintiffs as representatives of the Class(es), and appointing undersigned counsel as Class Counsel;
- b. Enjoining Norwegian from continuing the acts and practices challenged by the Plaintiffs, including an order requiring Norwegian to make full disclosure to consumers of its retention of Travel Insurance Policy premiums sold through the BTPP and the amount of the kickback it receives;
- c. Awarding Plaintiff and the Classes damages, injunctive relief, declaratory relief, attorneys' fees, and costs under FDUTPA;
- d. Awarding pre-judgment and post-judgment interest at the maximum rate permitted by applicable law;
- e. Awarding Plaintiff and Class members costs and disbursements and reasonable allowances for the fees of Plaintiff's and the Class Counsel and experts, and reimbursement of expenses;
- f. Awarding such other relief as the Court deems just, equitable and proper.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial as to all claims so triable.

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Dated: September 21, 2018.

Respectfully submitted,

By: /s/ Adam Moskowitz

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JS 44 (Rev 06/17) FLSD Revised 06/01/2017

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS Martha Phillips and Jerry Phillips, on behalf of themselves and all others similarly situated,

DEFENDANTS NCL Corporation LTD d/b/a NORWEGIAN CRUISE LINES, a foreign corporation

(b) County of Residence of First Listed Plaintiff Peach County (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Miami-Dade (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number) The Moskowitz Law Firm, 2 Alhambra Plaza, Suite 601 Coral Gables, FL. 33134 - Tel: (305) 740-1423

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED Attorneys (If Known)

(d) Check County Where Action Arose: [X] MIAMI-DADE [] MONROE [] BROWARD [] PALM BEACH [] MARTIN [] ST LUCIE [] INDIAN RIVER [] OKEECHOBEE [] HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1
2 2
3 3
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation
PTF DEF
4 [X] 4
5 5
6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, OTHER STATUTES, FEDERAL TAX SUITS. Includes various checkboxes for legal categories like 110 Insurance, 210 Land Condemnation, 440 Other Civil Rights, etc.

V. ORIGIN

- 1 Original Proceeding
2 Removed from State Court
3 Re-filed (See VI below)
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation Transfer
7 Appeal to District Judge from Magistrate Judgment
8 Multidistrict Litigation - Direct File
9 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S) (See instructions): a) Re-filed Case [] YES [X] NO b) Related Cases [X] YES [] NO JUDGE: Kathleen M. Williams DOCKET NUMBER: 1:18-cv-23463-KMW

VII. CAUSE OF ACTION: Fed. R. Civ. P 23 LENGTH OF TRIAL via days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [] No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE DATE September 21, 2018 SIGNATURE OF ATTORNEY OF RECORD [Signature]

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked. Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Nature of Suit. Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Refiled (3) Attach copy of Order for Dismissal of Previous case. Also complete VI.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

Remanded from Appellate Court. (8) Check this box if remanded from Appellate Court.

VI. Related/Refiled Cases. This section of the JS 44 is used to reference related pending cases or re-filed cases. Insert the docket numbers and the corresponding judges name for such cases.

VII. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VIII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

MARTHA PHILLIPS and JERRY PHILLIPS,
on behalf of themselves and all others
similarly situated,

Plaintiff(s)

v.

NCL CORPORATION LTD d/b/a
NORWEGIAN CRUISE LINES,
a foreign corporation,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) NCL Corporation LTD d/b/a
Norwegian Cruise Line
c/o Registered Agent
Daniel S. Farkas, Esq,
7665 Corporate Center Drive
Miami, FL 33126

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you
are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ.
P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of
the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney,
whose name and address are:

Adam M. Moskowitz, Esq.
THE MOSKOWITZ LAW FIRM, PLLC
2 Alhambra Plaza
Suite 601
Coral Gables, FL 33134

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint.
You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Norwegian Cruise Lines Hit with Lawsuit Over 'Undisclosed Kickbacks' from Sale of Travel Insurance](#)
