

## Will cruise ships be found liable for passengers testing COVID positive during or after a cruise?

Dozens of suits have now been brought against cruise lines... The industry is responding by defending their sterilization and cleaning processes. Proving that cleaning was improperly performed, resulting in exposure to COVID-19 (an essential element of causation of the plaintiffs' injuries), may be challenging to achieve. But even if exposure can be proven, the plaintiff must also prove the defendant acted carelessly or negligently. And most likely, the ships did excellent jobs in cleaning and sterilizing.

But consider the decision to quarantine on board and the failure to immediately alert existing or new passengers that their co-travelers were sick – allowing passengers on board to disembark if they wish, or new passengers not to embark if they hadn't already. This seems to me far more problematic to defend.

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Lawsuits are not merely to compensate ill or injured claimants, but also to deter negligent behavior and encourage prudence. Watching the Japanese cruise ship (labeled by one medical commentator as a floating petri dish) bobbing and weaving on the waves, resulting in 700 sick passengers (one-third of those aboard) and 13 deaths – should have put similar cruise ships on notice that quarantine in a closed vessel was probably the worst thing that could have been done under the circumstances.

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