UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 1:25-cv-20330-KMM

SAMIA HADDAD,

Plaintiff,

v.

CELEBRITY CRUISES INC, *et al.*,

Defendants.
_____/

ORDER

THIS CAUSE came before the Court upon Defendants Celebrity Cruises, Inc. ("Celebrity") and Royal Caribbean Cruises, Ltd.'s ("RCCL") (collectively, "Defendants") Motion to Dismiss Plaintiff's First Amended Complaint. ("Motion" or "Mot.") (ECF No. 63). Plaintiff Samia Haddad ("Plaintiff") filed a Response ("Resp.") (ECF No. 68), and Defendants filed a Reply (ECF No. 69). The Motion is now ripe for review. As set forth below, the Court GRANTS the Motion.

I. BACKGROUND[1]

On or about October 27, 2023, Plaintiff boarded the Celebrity *Eclipse* vessel (the "Vessel") while it was docked in San Diego, California. Am. Compl. ¶ 7. Plaintiff, who uses a motorized wheelchair, entered the Vessel using the gangway ramp when Plaintiff's "wheelchair toppled backward due to the steep slope, causing Plaintiff to fall and suffer serious injuries to her back,

[1] The following facts are taken from Plaintiff's First Amended Complaint ("Am. Compl.") (ECF No. 61) and are accepted as true for purposes of ruling on the Motion to Dismiss. *See MSP Recovery Claims, Series LLC v. Metro. Gen. Ins. Co.*, 40 F.4th 1295, 1302 (11th Cir. 2022).

shoulders, and head." *Id.* ¶¶ 7, 11. Plaintiff brings two negligence claims against Celebrity and RCCL. *Id.* ¶¶ 19–26.

Plaintiff initially brought this Action in the United States District Court for the Central District of California. (ECF No. 1). On January 22, 2025, this Action was transferred to the United States District Court for the Southern District of Florida. (ECF No. 33). In response to Plaintiff's Complaint, Defendants filed a Motion to Dismiss. (ECF No. 46). On July 9, 2025, the Court granted Defendant's Motion to Dismiss and dismissed the case without prejudice as a shotgun pleading and for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6). (ECF No. 58). In the Court's Order granting Defendant's Motion to Dismiss, the Court permitted Plaintiff "one opportunity to amend her Complaint." *Id.* at 5. On July 30, 2025, Plaintiff filed her First Amended Complaint. *See generally* Am. Compl. Therein, she asserts the following claims: (1) negligence under maritime law against Celebrity (Count I); and (2) negligence under maritime law against RCCL (Count II). *See generally id.* Now before the Court is the instant Motion seeking dismissal of Plaintiff's First Amended Complaint with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6). *See generally* Mot.

II. LEGAL STANDARD

Federal Rule of Civil Procedure 8(a) requires that a complaint contain "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). The purpose of Rule 8(a)(2) "is to give the defendant fair notice of what the claim is and the grounds upon which it rests." *Davis v. Coca-Cola Bottling Co. Consol.*, 516 F.3d 955, 974 (11th Cir. 2008) (internal citation and quotation marks omitted).

Federal Rule of Civil Procedure 12(b)(6) permits a court to dismiss a complaint for failing to state a claim upon which relief can be granted. Fed. R. Civ. P. 12(b)(6). "To survive a motion

to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citation and internal quotation marks omitted). This requirement "give[s] the defendant fair notice of what the claim is and the grounds upon which it rests." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (internal citation and alterations omitted). The court takes the plaintiff's factual allegations as true and construes them in the light most favorable to the plaintiff. *Pielage v. McConnell*, 516 F.3d 1282, 1284 (11th Cir. 2008).

A complaint must contain enough facts to plausibly allege the required elements. *Watts v. Fla. Int'l Univ.*, 495 F.3d 1289, 1295–96 (11th Cir. 2007). A pleading that offers "a formulaic recitation of the elements of a cause of action will not do." *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 555). "[C]onclusory allegations, unwarranted deductions of facts or legal conclusions masquerading as facts will not prevent dismissal." *Oxford Asset Mgmt., Ltd. v. Jaharis*, 297 F.3d 1182, 1188 (11th Cir. 2002).

III. DISCUSSION

In the Motion, Defendants argue that the Amended Complaint should be dismissed because: (1) the Amended Complaint fails to plausibly allege Defendants had notice regarding an alleged dangerous condition; (2) Count II also fails to state a claim against RCCL because federal maritime law does not recognize a claim based on a failure to implement risk management procedures; and (3) Count I also fails to state a claim for negligent training. Mot. at 4–12. In the Response, Plaintiff argues against dismissal because: (1) the Amended Complaint alleges a plausible claim of constructive notice and (2) it is premature to find RCCL cannot be liable as a

parent company at the motion to dismiss stage. Resp. at 3–6.[2] The Court first addresses Defendant's arguments regarding Count I, before next turning to Defendant's argument regarding Count II.

A. Failure to Plead Actual or Constructive Notice

As an initial matter, Plaintiff's negligence claims arise under general maritime law "because the alleged tort was committed aboard a ship sailing in navigable waters." *Keefe v. Bahama Cruise Line, Inc.*, 867 F.2d 1318, 1320 (11th Cir. 1989) (citations omitted). "In analyzing a maritime tort case, [the Court] relies on general principles of negligence law." *Chapparro v. Carnival Corp.*, 693 F.3d 1333, 1336 (11th Cir. 2012) (internal quotations omitted). At the motion to dismiss stage, a plaintiff must plead facts sufficient to plausibly allege that: "(1) the defendant had a duty to protect the plaintiff from a particular injury, (2) the defendant breached that duty, (3) the breach actually and proximately caused the plaintiff's injury, and (4) the plaintiff suffered actual harm." *See id.*; *see also Guevara v. NCL (Bahamas) Ltd.*, 920 F.3d 710, 720 (11th Cir. 2019).

In the maritime context, a plaintiff must also demonstrate that "the [shipowner] [] had actual or constructive notice of [a] risk-creating condition." *Keefe*, 867 F.2d at 1322. "Actual notice exists when the defendant knows about the dangerous condition." *See Holland v. Carnival Corp.*, 50 F.4th 1088, 1095 (11th Cir. 2022). In contrast, constructive notice exists where "the shipowner ought to have known of the peril to its passengers" because the "hazard [had] been

[2] While the Response also contains arguments regarding comparative negligence, affirmative defenses, and improper requested relief, the Court agrees with Defendants these other arguments against dismissal are not in response to arguments Defendants raised, so the Court need not address them at this stage. *See* Reply at 2; Resp. at 6–8; *see also* Mot. at 4–12. Additionally, in addressing Plaintiff's argument about notice, the Court inherently also addresses her general argument that she has adequately pleaded a maritime negligence claim. *See* Resp. at 3.

present for a period of time so lengthy as to invite corrective measures." *Keefe*, 867 F.2d at 1322. Constructive notice may also exist where a plaintiff demonstrates that substantially similar incidents occurred under substantially similar conditions. *Guevara*, 920 F.3d at 720.

Defendants argue that Plaintiff fails to plausibly allege they had notice of the dangerous condition— specifically that the ramp was dangerously steep, and passengers needed assistance to get up safely, *see* Am. Compl. ¶¶ 13–14. Mot. at 5–9. The Court notes Plaintiff's Response only argues that she plausibly alleged constructive notice.[3] Resp. at 5. The Court finds Plaintiff has not plausibly pleaded constructive notice.

The Court agrees with Defendants, who argue that the Amended Complaint does not include "any specific factual allegations regarding prior incidents that are substantially similar to [Plaintiff's] own accident to show Defendants' constructive notice." Mot. at 6. Although Plaintiff states that "Defendants' reliance on the absence of prior *identical* incidents is misplaced," Resp. at 5 (emphasis added), it is true that Plaintiff needs to do more than provide conclusory allegations about the existence of substantially similar incidents in order to allege constructive notice. *See Holland*, 50 F.4th at 1096 (explaining that plaintiff's allegations of constructive notice were insufficient where he alleged that there are "'frequently spills on the staircase' and 'prior slip and fall incidents [occurred] on this staircase'"). Here, Plaintiff alleges only that "Defendants were aware of similar incidents involving wheelchair-bound or mobility-impaired passengers experiencing difficulty or tipping while using gangway ramps on [the Vessel] or other vessels in

[3] Plaintiff refers to "actual notice" at multiple points in the Amended Complaint. *See, e.g.*, Am. Compl. ¶¶ 12, 13, 21. The Court notes, however, that in none of these places is Plaintiff alleging Defendants actually knew of the specific dangerous condition on the specific gangway here. Rather, the Court understands Plaintiff to use "actual notice" to allege Defendants had actual awareness of prior incidents and conditions that would have placed them on constructive notice of the alleged dangerous condition here.

their fleet." Am. Compl. ¶ 12. This conclusory allegation, with no reference to any specific substantially similar incidents, is insufficient to plausibly allege constructive knowledge. *See Holland*, 50 F.4th at 1096. The Court also finds that this allegation is too general because it does not refer specifically to prior incidents on this particular gangway (as gangways are attached to ports and do not travel with ships), or allege the other gangways were substantially similar to the one at issue here. *See Bahr v. NCL (Bahamas) Ltd.*, 19-cv-22973, 2021 WL 4898218, at *6) (S.D. Fla. Oct. 20, 2021) (demonstrating that gangways are not assumed to all be the same and that they are specific to ports not ships).

The Court also agrees with Defendants that Plaintiff's allegation that the gangway ramp does not comply with industry standards "does not, in itself, establish notice of a dangerous condition." Mot. at 7–8; *see Tuite v. Carnival Corp.*, 713 F. Supp. 3d 1338, 1349–50 (S.D. Fla. 2024) (holding that "noncompliance with safety standards" "without anything more, cannot establish" notice). The same goes for Defendants' argument that "Plaintiff's allegation that Defendants' 'own internal policies and crew training manuals acknowledged the risks associated with boarding mobility-impaired passengers on inclined gangways' does not plausibly allege Defendants' notice of a dangerous condition with this gangway." Mot. at 8. The Amended Complaint fails to actually reference any such policies, and such conclusory allegations are not enough to survive at this stage. *See Oxford Asset Mgmt., Ltd.*, 297 F.3d at 1188.

B. Failure to Plead Negligent Training

Defendant further argues that, to the extent Count I constitutes an attempt to state a claim for negligent training, the Amended Complaint also fails there. Mot. at 10–12. To state a claim for negligent training, a Plaintiff "'must show that [the defendant] was negligent in the implementation or operation of [a] training program.'" *Mayer v. Carnival Corp.*, 731 F. Supp. 3d

1316, 1322 (S.D. Fla. 2024) (quoting *Mercado v. City of Orlando*, 407 F.3d 1152, 1162 (11th Cir. 2005)). "Courts in our District tend to dismiss claims for negligent training where a plaintiff hasn't alleged 'that certain training programs exist.'" *Id.* (quoting *Walsh v. Carnival Corp.*, 20-cv-21454, 2020 WL 10936272, at *5 (S.D. Fla. July 7, 2020)). In *Mayer*, the plaintiff "never actually allege[d] that Carnival has a training program" that "goes beyond the company's general policies and operations," so the court dismissed the count for failure to state a claim. *Id.*

Similarly, here, Plaintiff briefly references a failure by Celebrity to "train its crew to assist passengers with mobility impairments." Am. Compl. ¶ 20. However, Plaintiff never actually alleges a "certain training program exist[s]." *Mercado*, 407 F.3d at 1162; *see generally id.* Plaintiff also never alleges that any such training "goes beyond the company's general policies and operations." *Mayer*, 731 F. Supp. 3d at 1322. Therefore, Plaintiff fails to state a plausible claim for negligent training. Accordingly, the Court dismisses Count I of the Amended Complaint.

C. Claims Based on Company's General Policies and Operations

Defendants argue Count II of the Amended Complaint should be dismissed because it is a negligent mode of operation claim, which is "not recognized under federal maritime law." Mot. at 9. Negligent mode of operation claims seek to hold defendants liable "with respect to [their] policies and procedures." *Quashen v. Carnival Corp.*, 576 F. Supp. 3d 1275, 1305 (S.D. Fla. 2021); *Malley v. Royal Caribbean Cruises Ltd.*, 713 F. App'x 905, 910 (11th Cir. 2017) (explaining that negligent mode of operation claims allege the company's policies are negligent).

Plaintiff responds that it is alleging "RCCL controlled accessibility policies, boarding procedures, and crew training," and that it is not correct that parent companies cannot be liable under maritime law. Resp. at 5–6. Defendants reply that Plaintiff's Response mischaracterizes their argument as being about immunity for parent companies and fails to respond meaningfully

to Defendants' contention that this is an improper negligent mode of operation claim. Reply at 2. The Court agrees with Defendants and dismisses Count II as an improper negligent mode of operation claim.

Here, Plaintiff seeks to hold RCCL liable for negligence, asserting that it breached its duty in three ways: (1) "[f]ailing to implement and enforce adequate policies to ensure safe boarding procedures for mobility-impaired passengers"; (2) "[f]ailing to require inspections or modifications to prevent the dangerous conditions posed by steep ramps"; and (3) "[f]ailing to provide adequate training and staffing to assist disabled passengers." Am. Compl. ¶¶ 23–24. Each of these alleged breaches pertains to RCCL's policy decisions and how it conducts business, so Plaintiff's allegations are under a negligent mode of operation theory. *See Malley*, 713 F. App'x at 910 ("A negligent mode of operation claim is . . . a claim that a business created an unsafe environment through the manner in which it conducts its business."); *Nowak v. Carnival Corp.*, 24-cv-24316, 2025 WL 57525, at *4 (S.D. Fla. Jan. 9, 2025) ("[A]llegations describing a failure to create or follow adequate policies and procedures do not relate to the specific circumstances of a plaintiff's injury and are instead allegations of negligent mode of operation not recognized in the Eleventh Circuit"). Such claims are not recognized under maritime law. *See Malley*, 713 F. App'x at 910. To the extent that Plaintiff argues dismissal on this basis is premature, Resp. at 5, this Court has consistently dismissed claims for negligent mode of operation under maritime law for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6). *See, e.g.*, *Nowak*, 2025 WL 57525, at *4; *Youngman v. Royal Caribbean Cruises Ltd.*, 23-cv-21796, 2023 WL 5206036, at *2 (S.D. Fla. Aug. 14, 2023). Accordingly, the Court also dismisses Count II of the Amended Complaint.

In sum, the Court dismisses both of Plaintiff's claims for failure to state a claim. The Court noted in its prior Order that Plaintiff would be permitted "one opportunity to amend her Complaint." (ECF No. 58) at 5). Plaintiff has had one chance to amend, and further amendment would be futile. *Corsello v. Lincare Inc.*, 428 F.3d 1008, 1014 (11th Cir. 2005); *Bryant v. Dupree*, 252 F.3d 1161, 1163 (11th Cir. 2001). Therefore, Plaintiff's Amended Complaint is dismissed with prejudice.

IV. CONCLUSION

Accordingly, UPON CONSIDERATION of the Motion, the pertinent portions of the record, and being otherwise fully advised in the premises, it is hereby ORDERED AND ADJUDGED that Defendants' Motion to Dismiss (ECF No. 63) is GRANTED. Plaintiff's Amended Complaint (ECF No. 61) is DISMISSED WITH PREJUDICE. Any outstanding motions are DENIED AS MOOT.

DONE AND ORDERED in Chambers at Miami, Florida, this 31st day of October, 2025.

K. MICHAEL MOORE
UNITED STATES DISTRICT JUDGE

c: All counsel of record