UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 1:25-cv-24215-KMM

KAREN BENNETT,

Plaintiff,

v.

CARNIVAL CORPORATION, a Panamanian Corporation d/b/a Carnival Cruise Lines,

Defendant.
_____/

ORDER

THIS CAUSE came before the Court upon Defendant Carnival Corporation, d/b/a Carnival Cruise Lines' ("Defendant") Motion to Dismiss Plaintiff's Complaint for Damages and Demand for Jury Trial. ("Motion" or "Mot.") (ECF No. 8). Plaintiff Karen Bennett ("Plaintiff") filed a Response ("Resp.") (ECF No. 12), and Defendant filed a Reply ("Reply") (ECF No. 18). The Motion is now ripe for review. As set forth below, the Court GRANTS the Motion.

I. BACKGROUND[1]

In July 2024, Plaintiff was a passenger on the *Freedom*, a cruise ship operated by Defendant. Compl. ¶ 12. On or about July 17, 2024, Plaintiff walked down a corridor on Deck 7 when a ceiling panel "fell without warning or notice to [Plaintiff] and struck her," injuring her head, neck, and right shoulder. *Id.* ¶¶ 14–15, 19. The ceiling panel "was located overhead and appeared secure to a reasonable lay observer not familiar with its installation or maintenance, and

[1] The following facts are taken from Plaintiff's Complaint for Damages and Demand for Jury Trial ("Compl.") (ECF No. 1) 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).

there were no warning signs, barricades, or other measures to alert passengers" to the risk of falling ceiling panels. *Id.* ¶ 16.

Plaintiff brought this Action against Defendant on September 16, 2025. *See generally id.* In the Complaint, Plaintiff brought two counts against Defendant: negligent maintenance and negligent failure to warn. *Id.* ¶¶ 20–35. On October 20, 2025, Defendant filed its Motion seeking to dismiss the Complaint 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 its Motion, Defendant argues the Complaint should be dismissed because Plaintiff fails to plausibly allege Defendant had notice using either prior incidents or the length of time the hazardous condition existed. *See generally* Mot. Plaintiff argues in response that she has pointed to prior incidents in her complaint and need not prove those incidents are substantially similar to the one at issue at this juncture. Resp. at 3–6. Further, she argues that the length of the time the dangerous ceiling-panel condition existed was sufficient to establish Defendant's notice of the dangerous condition. *Id.* at 6–7. This Court addresses Defendant's arguments in turn.

As an initial matter, Plaintiff's negligence claims arise under general maritime law "because the alleged tort[s] [were] 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 a plaintiff demonstrates that substantially similar incidents occurred under substantially similar conditions. *Guevara*, 920 F.3d at 720. Constructive notice may also exist where "the shipowner ought to have known of the peril to its passengers" because the "hazard [had] been present for a period of time so lengthy as to invite corrective measures." *Keefe*, 867 F.2d at 1322.

A. Prior Substantially Similar Incidents

Plaintiff points to seven prior incidents of passengers injured by falling ceiling tiles or panels on various ships in Defendant's fleet. Compl. ¶ 17. Defendant argues that Plaintiff's Complaint fails, because none of the prior incidents Plaintiff cited "occurred on the subject ship," and "the only similarity any of the proposed prior incidents share is that some 'ceiling panel' or 'ceiling tile' fell." Mot. at 8. Further, Defendant states that "Plaintiff provides no further factual allegations to connect these instances to Plaintiff's specific incident, much less to plausibly allege [Defendant's] constructive or actual notice of Plaintiff's alleged dangerous condition." *Id.* The Court notes that, in listing the prior incidents, Plaintiff provides one sentence about each that does not explain if or why they are substantially similar to the incident in the instant case. The Complaint also fails to explain how these incidents—which occur on different ships, with some seemingly not even occurring in similar corridors on these other ships—would have put Defendant on notice of issues with the ceiling in this specific corridor. *Cf. Pride v. Carnival Corp.*, No. 23-cv-22121, 2023 WL 6907813, at *5 (S.D. Fla. Oct. 19, 2023) (finding plaintiff adequately pleaded

constructive notice where she "provided full names and dates of passengers who also allegedly *fell on the same ship… and on the same deck material* prior to Plaintiff's incident" (emphasis added)).

Plaintiff argues that the Complaint's allegations are sufficient because "prior events need only be similar enough to allow the jury to draw a reasonable inference of foreseeability." Resp. at 5 (citations omitted). However, as this Court previously noted when analyzing a very similar complaint, "[w]ithout any specific factual allegations, the Court cannot conclude that any of these incidents were substantially similar to the accident in this case." *Kendall v. Carnival Corp.*, No. 23-cv-22921, 2023 WL 8593669, at *3 (S.D. Fla. Dec. 8, 2023) ("To accept Plaintiff's argument would require this Court to hold that a cruise ship operator has constructive notice of a dangerous condition when, over the course of seven years and across multiple vessels, six individuals suffered injuries when they fell due to an uneven and/or sloped cruise ship hallway."); *see also* Reply at 3 ("Plaintiff has missed the point, there needs to be alleged facts suggesting that Carnival knew or should have known of the specific dangerous condition, not that ceiling tiles or panels can fall generally. Plaintiff points to no specific defect or cause related to her incident or the prior incidents."). Accordingly, the Court finds Plaintiff has not sufficiently alleged constructive notice using prior incidents.

B. Length of Time Condition Existed

Plaintiff argues alternatively that the hazardous condition "existed for a long enough period of time" that Defendant "had constructive knowledge of its presence and of the hazard it posed." *See* Compl. ¶¶ 24, 32. Defendant argues this is "the exact type of conclusory allegation[]" that is "insufficient to plausibly allege a cruise line's negligence" in the Eleventh Circuit. Mot. at 10 (citations omitted). Further, Defendant argues Plaintiff does not "provid[e] any factual details of how long the condition existed such that Carnival should have been aware of it." *Id.* at 12. The

Court agrees, noting that without "factual allegations regarding how long this condition allegedly existed prior to the accident. . . this theory of constructive notice fails." *Kendall*, 2023 WL 8593669, at *3.

Plaintiff argues that any information about how long this defect existed, "including inspection logs, maintenance schedules, and work orders, is uniquely within Carnival's possession and control. Plaintiff cannot be expected at the pleading stage to specify the precise amount of time the condition existed without access to those internal records." Resp. at 7. Plaintiff also argues that by its very nature, falling ceiling panel must be caused by structural defects that have "persisted for an extended period before detaching." *Id.* When given a recent opportunity to address similar arguments, the Eleventh Circuit found them unavailing. *See generally Patton v. Carnival Corp.*, No. 22-13806, 2024 WL 1886504 (11th Cir. Apr. 30, 2024). In *Patton*, the plaintiff was injured after tripping over a metal threshold in a hallway that was not properly secured to the floor, causing it to protrude. *Id.* at *1. The plaintiff argued that the reasonable inference to draw would be that the threshold's dangerous condition was due to wear and tear developed over time. *Id.* at *3. The Eleventh Circuit found that this was not sufficient at the motion to dismiss stage, because there was "not enough in the complaint or the attachments for [the court] to conclude that this inference is reasonable and not an unwarranted deduction." *Id.* The Court finds the same holds true here, where the Complaint is devoid of allegations that help the Court infer the ceiling panels must have collapsed because of a condition that persisted for an extended period. *See generally* Compl.

Additionally, the *Patton* Court rejected that plaintiff's argument that her complaint should survive dismissal "because the relevant evidence is wholly under the control of the cruise line." *Patton*, 2024 WL 1886504 at *3 (internal quotations omitted). Similarly, the Court rejects

Plaintiff's argument to that effect here, and reiterates that she need not have actual knowledge at the pleading stage, but that she does need to plausibly allege that Defendant had constructive notice of the dangerous condition. *See id.* ("So long as she had a good-faith basis, she could've made these allegations even though she did not have access yet to evidence supporting them.").s Accordingly, the Court finds Plaintiff has not sufficiently alleged constructive notice using the length of time the defective condition existed. Therefore, Plaintiff has failed to plausibly allege constructive notice,[2] and the Court finds that the Complaint must be dismissed without 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 Defendant's Motion to Dismiss (ECF No. 8) is GRANTED. Plaintiff's Complaint (ECF No. 1) is DISMISSED WITHOUT PREJUDICE. Should Plaintiff choose to file an amended complaint, she may do so within twenty-one (21) days of the date of this Order. The Clerk of Court is INSTRUCTED to CLOSE THIS CASE. All pending motions are DENIED AS MOOT.

DONE AND ORDERED in Chambers at Miami, Florida, this 25th day of November, 2025.

K. M. Moore

K. MICHAEL MOORE
UNITED STATES DISTRICT JUDGE

[2] Although Plaintiff references "actual knowledge" or "actual notice" at multiple times in her Complaint, she never alleges any facts speaking to actual notice as opposed to constructive notice. *See generally* Compl. 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.

c: All counsel of record