

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 22-cv-24003-MARTINEZ

BONNEY CONEY,

Plaintiff,

v.

ROYAL CARIBBEAN CRUISES, LTD.
d/b/a ROYAL CARIBBEAN GROUP,
DR. AYUSH CHAUDHARY,
ONE SPA WORLD, LLC,

Defendants.

**ORDER GRANTING IN PART MOTION TO DISMISS
COUNT VI OF AMENDED COMPLAINT**

THIS CAUSE comes before this Court upon Defendant Royal Caribbean Cruises Ltd.’s Motion to Dismiss Count VI of the Amended Complaint (the “Motion”), (ECF No. 8). This Court has reviewed the Motion; Plaintiff’s Response, (ECF No. 16); and pertinent portions of the record and is otherwise fully advised in the premises. After careful consideration, and for the reasons set forth herein, the Motion, (ECF No. 8), is **GRANTED IN PART** as set forth herein.

I. BRIEF FACTUAL BACKGROUND

Plaintiff Bonny Coney was a passenger aboard Defendant’s *Allure of the Seas* from December 23, 2021, to December 30, 2021. (Am. Compl. ¶¶ 12–13, ECF No. 5.) Plaintiff alleges that on or about December 27, 2021, she was overserved large quantities of various alcoholic beverages. (*Id.* ¶ 31.) Plaintiff claims that these alcoholic beverages were consumed in the presence of Defendant’s employees and Plaintiff showed physical and verbal signs of being overly intoxicated. (*Id.* ¶¶ 32–33.) Despite these signs alleged by the Plaintiff, Defendant continued to

provide the Plaintiff alcoholic beverages. (*Id.* ¶ 32.) On that same night, Plaintiff, after entering her cabin, fell over her bed severely fracturing her cervical spine. (*Id.* ¶ 33.)

Following her fall, Plaintiff went to the medical center aboard the vessel and was examined by Dr. Ayush Chaudhary (hereinafter referred to as the “Medical Defendant”). (*Id.* ¶ 34.) Plaintiff alleges that she presented symptoms of a spinal fracture and nerve damage. (*Id.* ¶ 35.) After an x-ray examination was conducted, Plaintiff claims that the Medical Defendant was unable to verify her injuries. (*Id.* ¶ 35.) Plaintiff alleges that the Medical Defendant manipulated her neck, turning her head in all directions, and provided her with a hard cervical collar before being sent back to her cabin. (*Id.*) Plaintiff returned to the medical center for the remaining duration of her trip for pain medication but was never formally diagnosed with a spinal fracture. (*Id.* ¶ 36.)

While onboard the vessel, Defendant One Spa World advised Plaintiff that she could undergo acupuncture treatment. (*Id.* ¶ 37.) During this spa treatment, Plaintiff’s hard cervical collar was removed and she alleges her symptoms were exacerbated. (*Id.* ¶ 38.) On or around December 30, 2021, Plaintiff disembarked the vessel and was taken by ambulance to the Broward Health Medical Center. (*Id.* ¶ 40.) There, an MRI confirmed that Plaintiff was suffering from a fractured cervical spine and as a result, Plaintiff required a spinal fusion. (*Id.* ¶¶ 40–41.)

On February 3, 2023, Plaintiff filed her Amended Complaint against Defendants. (ECF No. 5.) The Amended Complaint contains the following nine counts: negligent over service of alcohol against RCCL (Count I); negligent security against RCCL (Count II); negligent supervision against RCCL (Count III); negligence against RCCL for the acts of the Medical Defendant based on a theory of vicarious liability under respondeat superior (Count IV); negligence against RCCL for the acts of the medical defendant based on a theory of vicarious liability under apparent agency (Count V); general negligence against RCCL (Count VI); negligence against the Medical

Defendant (Count VII); negligence against One Spa World for the acts of its spa acupuncturist based on a theory of vicarious liability under respondeat superior (Count VIII); and negligence against One Spa World (Count IX). On February 15, 2023, Defendant filed its Motion to Dismiss Count VI of the Amended Complaint arguing that the count is a catch-all negligence claim and an impermissible shotgun pleading. (Defs. ['] Mot. to Dismiss, ECF No. 8.)

II. LEGAL STANDARD

Under the Federal Rules of Civil Procedure, a plaintiff's complaint must contain "a short and plain statement showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). And each "party must state its claims or defenses in numbered paragraphs, each limited as far as practicable to a single set of circumstances." Fed. R. Civ. P. 10(b). Violations of these rules create shotgun pleading problems. *Weiland v. Palm Beach Cnty. Sheriff's Off.*, 792 F.3d 1313, 1322–23 (11th Cir. 2015). "The unifying characteristic of all types of shotgun pleadings is that they fail to one degree or another, and in one way or another, to give the defendants adequate notice of the claims against them and the grounds upon which each claim rests." *Id.* at 1323. "Courts in the Eleventh Circuit have little tolerance for shotgun pleadings." *Vibe Micro, Inc. v. Shabanets*, 878 F.3d 1291, 1294–95 (11th Cir. 2018). *See Arrington v. Green*, 757 F. App'x 796, 798 (11th Cir. 2018) (holding that the district court did not err by dismissing the amended complaint as an impermissible shotgun pleading).

III. DISCUSSION

Defendant moves to dismiss Count VI of Plaintiff's Amended Complaint based on a failure to state a claim. (Defs. ['] Mot. to Dismiss at 1.) Specifically, Defendant alleges that Count VI is an impermissible shotgun pleading. (*Id.* at 5.) Additionally, Defendant claims that Plaintiff pleads a theory that is unrecognized by federal maritime law and fails to state a claim for negligent

training, hiring, and retention. (*Id.*) Plaintiff, in response, argues that Count VI does not qualify as a shotgun pleading and that it is organized and comprehensible. (Pl. [’s] Resp. in Opp’n, ECF No. 16 at 5.) Additionally, Plaintiff states that she is not lodging a claim against Defendant for negligent mode of operation, and that a claim for negligent hiring or retention was sufficiently pled. (*Id.* at 5–6.)

One type of shotgun pleading is where a complaint fails to separate into a different count each cause of action or claim for relief. *Weiland*, 792 F.3d at 1322-23. These separate causes of action or distinct theories must be asserted independently. *See Garcia v. Carnival Corp.*, 838 F. Supp. 2d 1334, 1337 (S.D. Fla 2012). In *Garcia*, the plaintiff begins a count by alleging that the defendant owed a duty to provide “reasonable care under the circumstances.” *Id.* The plaintiff then proceeded to allege twenty-one ways the defendant breached that duty. *Id.* The Court held that the twenty-one allegations in one count was an impermissible shotgun pleading. *Id.* The Court reached a similar conclusion in *Ortiz v. Carnival Corp.*, No. 20-24838-CIV, 2020 WL 6945958 at *2 (S.D. Fla. Nov. 25, 2020). There, the plaintiff asserted three counts of negligence and in her third negligence count, alleged at least thirteen ways in which the defendant breached their duty of care. *Id.* at *1. The Court held that these thirteen allegations in one count was an “attempt[] to cram multiple, distinct theories of liability into one claim,” making the pleading qualify as a shotgun pleading. *Id.* Additionally, when granting the plaintiff permission to file an amended complaint, the Court advised against “includ[ing] redundant claim claims in her amended pleading.” *Id.* at *2.

Here, Plaintiff’s claim of general negligence against RCCL (Count VI) qualifies as a shotgun pleading. *See Garcia*, 838 F. Supp. 2d at 1337; *see Ortiz*, 2020 WL 6945958 at *2. Similar to the plaintiff in *Garcia* who alleged twenty-one breaches of duty, Plaintiff asserts twenty claims of general negligence against Defendant. *Garcia*, 838 F. Supp. 2d at 1337; (Am. Comp. ¶ 78.)

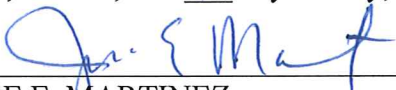
Plaintiff's twenty allegations combined into one count is an attempt to cram multiple theories into one claim, as prohibited by *Ortiz*. See *Ortiz*, 2020 WL 6945958 at *2. Additionally, a number of Plaintiff's claims act as redundant claims by providing allegations similar to those claimed in other counts. (Am. Compl. ¶ 78.) Therefore, Plaintiff's Count VI in the Amended Complaint qualifies as an impermissible shotgun pleading. For this reason, the Court dismisses Count VI without prejudice.

IV. CONCLUSION

Accordingly, it is **ORDERED and ADJUDGED** that Defendant's Motion to Dismiss, (ECF No. 8), is **GRANTED IN PART** as set forth herein. Count VI of the Amended Complaint, (ECF No. 5), is **DISMISSED without prejudice**.

DONE AND ORDERED in Chambers at Miami, Florida, this 27 day of July, 2023.

Copies provided to:
Magistrate Judge Becerra
All Counsel of Record



JOSE E. MARTINEZ
UNITED STATES DISTRICT JUDGE