

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

**NORWEGIAN CRUISE LINE HOLDINGS
LTD.;**

Plaintiff,

v.

SCOTT A. RIVKEES, M.D., State Surgeon
General and Head of the Florida Department of
Health, in his official capacity;

Defendant.

Case No. 1:21-cv-22492-KMW

SECOND DECLARATION OF DR. STEPHEN OSTROFF

I, Dr. Stephen Ostroff, declare as follows:

1. I am over the age of eighteen (18) years and am competent to make the statements contained herein.

2. I was a member of the Healthy Sail Panel. The Panel issued its advice to cruise operators on September 21, 2020. Our recommendations were rooted in the best scientific and public health information available at that time. We recognized that our understanding and knowledge of SARS-CoV-2 was evolving almost daily and would continue to evolve. Therefore, the cruise operators' plans would need to evolve to incorporate new science, technologies, and preventive measures. The Panel found that preventing or minimizing SARS-CoV-2 from entering the ship is the single most important step that can be taken to reduce risk of an outbreak on board. Accordingly, the Panel noted that health screenings and exclusions policies are critical. The second critical preventative goal is to minimize transmission of the virus if it should make it on board. Also important is reducing the severity of illness of anyone who contracts COVID-19 during the cruise and making sure that cruise ships are properly equipped to treat it. The Panel encouraged cruise operators to stay abreast of developments in the science, technologies, and

preventive measure, and modify their safety protocols as appropriate to ensure the highest level of safety possible for passengers, crew, and port destinations.

3. At the time the Panel issued its recommendations, we could not predict when vaccines would become available or how effective they would be to prevent disease and reduce viral transmission. The FDA only issued the first emergency use authorization for a COVID-19 vaccine over two months after the Panel's written recommendations. After the written recommendations were issued, the Panel continued to meet and deliberate. There were extensive discussions of utilization of the available vaccines for both passengers and crew. There were also discussions of which of the Panel's earlier recommendations could be modified or removed in the setting of high levels of vaccination. The Panel determined that the greatest safety margin was for there to be high levels of vaccination for anyone on board the ship and strongly endorsed universal vaccination.

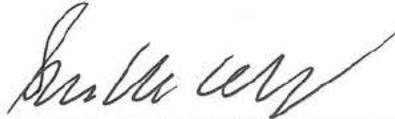
4. Today, full vaccination is the current state of the art for preventing COVID-19, minimizing transmission and reducing disease severity. As recently stated by the CDC Director, this has become a pandemic of the unvaccinated. The best way to ensure maximum health and safety related to COVID-19 on board cruises is to require all crew and passengers to be fully vaccinated prior to boarding.

5. The pandemic situation in the U.S. has changed dramatically in recent weeks, especially in Florida, which has become a hotspot for COVID-19. The incidence of disease in the United States has increased over 480% in the past month from a 7-day average of 12,857 cases per day to a 7-day average of 62,161 cases per day. The increase in incidence of disease in Florida is closer to 780% in the same time frame – from a 7-day average of 1,601 cases per day to a 7-day average of 12,496 cases per day. There has been a 438% jump in COVID-19

hospitalizations in Florida from 1,852 hospitalized patients on June 26th to 8,123 hospitalized as of July 26th. The largest number of individuals hospitalized in Florida at any point in the pandemic occurred about a year ago at 11,969 patients. Based on current trends, Florida may pass that record in the next few weeks. Florida now accounts for 20% of all new cases in the U.S. The test positivity rate in some parts of Florida is as high as 25% of tests administered. Florida is currently one of only three states in the country where every county is considered to have a high rate of transmission of COVID-19. From my prospective, Florida is right now confronting a COVID-19 crisis and should be taking all necessary measures to reduce the incidence of disease, including severe outcomes, and impact on the health care system. In my view, prohibiting effective safeguards against COVID-19, such as requiring vaccinations and documentation of same before passengers board a cruise ship is inconsistent with that goal.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 29, 2021



DR. STEPHEN OSTROFF