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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

CRUISE LINES INTERNATIONAL
ASSOCIATION ALASKA, *et al.*,

Plaintiffs,

v.

THE CITY AND THE BOROUGH OF JUNEAU,
ALASKA, *et al.*,

Defendants.

Case No. 1:16-cv-00008-HRH

**CRUISE LINES INTERNATIONAL
ASSOCIATION'S OBJECTIONS AND
RESPONSES TO CBJ'S FIRST
REQUESTS FOR PRODUCTION TO
CRUISE LINES INTERNATIONAL
ASSOCIATION**

Pursuant to Fed. R. Civ. P. 26(b)(1) and 34, Cruise Lines International Association ("CLIA"), by and through undersigned counsel, responds to the City and the Borough of Juneau, Alaska, et al.'s ("CBJ's" or "Defendant's") First Requests for Production to Cruise Lines International Association.

OVERARCHING OBJECTIONS

I. In accordance with Fed. R. Civ. P. 26-36, CLIA objects to and declines to be bound by the "INSTRUCTIONS" and "DEFINITIONS" to the extent they exceed the Federal Rules of Civil Procedure and/or purport to require of CLIA more than the Federal Rules of Civil Procedure require.

In particular, but in no way limiting CLIA's overarching objections, CLIA objects to and declines to be bound by the following:

- A. *CBJ's Production instruction regarding privilege.* CLIA objects to this instruction as outside the scope of Fed. R. Civ. P. 26 and 34. CLIA will produce a privilege log with the information required by Fed. R. Civ. P. 26(b)(5)(A).
- B. *CBJ's Production instruction regarding absence of documents "in the . . . custody or control of a Member. . ."* CLIA objects to this instruction on the grounds that it imposes obligations outside the scope of Fed. R. Civ. P. 34, as CLIA has no responsibility to search for, obtain, or produce documents outside of the possession, custody, or control of CLIA.
- C. *CBJ's Production instruction regarding document labeling.* CLIA objects to this instruction. CLIA states that it will produce documents as they are kept in the usual course of business pursuant to Fed. R. Civ. P. 34(b)(2)(E)(i). Further, CLIA will produce documents in a format that adheres to the parties' agreement in the Scheduling and Planning Conference Report ("Rule 26(f) Report") (ECF No. 43).
- D. *CBJ's Production instruction regarding refusals and/or objections.* CLIA objects to this instruction as outside the scope of Fed. R. Civ. P. 34, which only requires that "the response . . . state with specificity the grounds for objecting to the request, including the reasons." Fed. R. Civ. P. 34(b)(2)(B).
- E. *CBJ's Production instruction regarding lost, destroyed, or mutilated documents.* CLIA objects to this instruction as beyond the scope and requirements of Fed. R. Civ. P. 34.
- F. *CBJ's Production definition of "Plaintiffs."* CLIA objects to this definition because it contains cruise lines who are members of CLIA. The cruise line members of CLIA are not plaintiffs in this litigation. CLIA further objects to this definition insofar as "Plaintiffs" is defined as any person except for CLIA and Cruise Lines International Association Alaska ("CLIAA").

- II. CLIA submits these responses without conceding the relevancy or materiality of the subject matter of any request and without prejudice to CLIA's right to object to further discovery or to the admissibility of any additional proof on the subject matter of any response at the time of trial.
- III. CLIA's responses and objections are based on information currently known to CLIA. CLIA reserves the right to supplement its responses as its investigation and discovery continues; CLIA, however, assumes no obligation to supplement its responses beyond that imposed by the Federal Rules of Civil Procedure or court orders.

OBJECTIONS AND RESPONSES TO REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: All documents containing the minutes of all meetings of Plaintiff Cruise Lines International Association regarding Alaska cruises since its inception.

RESPONSE: CLIA objects to this Request as overly broad, unduly burdensome, and not proportional to the needs of the case. The amount of admissible evidence likely to be found in meeting minutes of CLIA regarding Alaska cruises since inception is minimal in comparison to the burden of reviewing and producing minutes of "all meetings" regarding Alaska cruises considering that CLIA has been in existence since 1975 and holds "meetings" frequently, and Alaska cruising has been occurring since at least that date. CLIA additionally objects to this Request as irrelevant to any party's claim or defense. In particular, the Request seeks minutes of meetings regardless of whether those meetings had anything to do with the issues in this case, namely the federal constitutional and statutory legality of CBJ's entry fees and CBJ's use and misuse thereof. The Request is not structured to obtain discovery that will be important to resolving the issues in this case. CLIA additionally objects to this Request to the extent that it requests documents subject to and/or protected by any applicable privileges, including the attorney-client privilege and those protections afforded by the work-product doctrine. Subject to and without waiving these objections and the Overarching Objections, CLIA states that it is withholding documents responsive to this Request on the basis of the objections and Overarching Objections set forth above.

services and/or benefits that CBJ may provide to vessels paying the entry fees at the Port of Juneau. Further, complaints about port lecturers are not likely to discuss the types of services permitted to be provided to vessels with the entry fee revenues collected by CBJ. CLIA further objects to this Request because, by seeking “documents in the possession of ... Member cruise lines[,]” it seeks documents outside the possession, custody, or control of CLIA. CLIA further objects to this Request to the extent that it seeks documents subject to and/or protected by any applicable privileges, including the attorney-client privilege and those protections afforded by the work-product doctrine. Subject to and without waiving these objections and CLIA’s Overarching Objections, CLIA states that it will produce responsive, non-privileged documents within its possession, custody, or control.

REQUEST FOR PRODUCTION NO. 28: All documents of Member cruise lines showing payments made by On Board Media, Inc., Panoff Publishing Inc., PPI Fleet Services, Inc., Passenger Promotions International, LLC, PPI Promotions, Inc., and Royal Media Partners, LLC under contracts between them and Member cruise lines.

Response: CLIA objects to this Request as irrelevant to any party’s claim or defense, overly broad, unduly burdensome, and not proportional to the needs of the case. Specifically, but without limitation, payments made by the listed marketing and communications companies are irrelevant to the legality of CBJ’s entry fees and CBJ’s use and misuse thereof and to the reasonableness, or lack thereof, of CBJ’s entry fees in relation to any services and/or benefits that CBJ may provide to vessels paying the entry fees at the Port of Juneau. CLIA further objects to this Request because, by seeking “documents of Member cruise lines[,]” the Request seeks documents outside the possession, custody, or control of CLIA. Subject to and without waiving these objections and CLIA’s Overarching Objections, CLIA states that it has no documents responsive to this Request.

REQUEST FOR PRODUCTION NO. 29: All promotional materials provided by Member cruise lines to passengers for on-shore excursions, shopping, and other recreational activities, including whale watching, flight-seeing and glacier tours on Alaska cruises, by year for the period 2011-16.

Response: CLIA objects to this Request as irrelevant to any party’s claim or defense, overly broad, unduly burdensome, and not proportional to the needs of the case. Specifically, but without limitation, promotional materials of CLIA’s member cruise lines are irrelevant to the legality of CBJ’s

entry fees and CBJ's use and misuse thereof and to the reasonableness, or lack thereof, of CBJ's entry fees in relation to any services and/or benefits that CBJ may provide to vessels paying the entry fees at the Port of Juneau. CLIA further objects to this Request because it seeks documents outside the possession, custody, or control of CLIA. Subject to and without waiving these objections and CLIA's Overarching Objections, CLIA states that it has no documents responsive to this Request.

REQUEST FOR PRODUCTION NO. 30: All contracts between Member cruise lines and Alaska vendors respecting on-shore excursions, shopping and other recreational activities, including whale watching, flight-seeing and glacier tours on Alaska cruises, by year for the period 2011-16.

Response: CLIA objects to this Request as irrelevant to any party's claim or defense, overly broad, unduly burdensome, and not proportional to the needs of the case. Specifically, but without limitation, contracts between CLIA's member cruise lines and Alaska vendors are irrelevant to the legality of CBJ's entry fees and CBJ's use and misuse thereof and to the reasonableness, or lack thereof, of CBJ's entry fees in relation to any services and/or benefits that CBJ may provide to vessels paying the entry fees at the Port of Juneau. CLIA further objects to this Request because it seeks documents outside the possession, custody, or control of CLIA. Subject to and without waiving these objections and CLIA's Overarching Objections, CLIA states that it has no documents responsive to this Request.

REQUEST FOR PRODUCTION NO. 31: Please produce all documents of any kind and any nature, including any and all electronic documents and social media documents that support your allegations in Paragraph 25 of your First Amended Complaint.

Response: CLIA objects to this Request to the extent that it seeks documents subject to and/or protected by any applicable privileges, including the attorney-client privilege and those protections afforded by the work-product doctrine. Subject to and without waiving these objections and CLIA's Overarching Objections, CLIA states that it will produce responsive, non-privileged documents within its possession, custody, or control.

REQUEST FOR PRODUCTION NO. 32: Please produce all documents of any kind and any nature, including any and all electronic documents and social media documents that support your allegations in Paragraph 26 of your First Amended Complaint.

Response: CLIA objects to this Request to the extent that it seeks documents subject to and/or protected by any applicable privileges, including the attorney-client privilege and those protections afforded by the work-product doctrine. Subject to and without waiving these objections and CLIA's Overarching Objections, CLIA states that it will produce responsive, non-privileged documents within its possession, custody, or control.

REQUEST FOR PRODUCTION NO. 33: Please produce all documents of any kind and any nature, including any and all electronic documents that support your allegations of "damage" in Paragraph 30 of your First Amended Complaint.

Response: CLIA objects to this Request as irrelevant to any party's claim or defense because CLIA's First Amended Complaint does not request monetary damages, other than attorneys' fees. CLIA objects to this Request to the extent that it seeks documents subject to and/or protected by any applicable privileges, including the attorney-client privilege and those protections afforded by the work-product doctrine. Subject to and without waiving these objections and CLIA's Overarching Objections, CLIA states that it will produce responsive, non-privileged documents within its possession, custody, or control.

DATED: January 9, 2017

By: /s/ C. Jonathan Benner

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Association*

CERTIFICATE OF SERVICE

I certify that on January 9, 2017 (ASKT), I caused a true and correct copy of the foregoing document to be served on:

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/s/ Kathleen E. Kraft

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