

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 19-24668-CIV-LENARD/O'SULLIVAN

DEBORAH REED,

Plaintiff,

v.

ROYAL CARIBBEAN CRUISES, LTD.,  
a foreign corporation, and JOHN DOE,

Defendant.

---

**RESPONSE TO DEFENDANT'S NOTICE OF FILING**

Plaintiff, DEBORAH REED, by and through her undersigned counsel, hereby responds to Defendant, ROYAL CARIBBEAN CRUISES, LTD.'s Notice of Filing, [DE 124], and states as follows:

The cited testimony of Ms. Campos does not clearly state whether her testimony applies to body camera footage of Ms. Reed's interview, JOHN DOE's interview, or both. This is especially troubling in light of the fact that Defendant failed to disclose the involvement of its guest security supervisor in Ms. Reed's incident at the time of its initial corporate representative deposition taken on July 9, 2020. [DE 97-5]. Indeed, when Defendant's corporate representative was deposed on October 29, 2020, nearly four months after the initial deposition on July 9, 2020, Defendant's corporate representative testified as follows:

Q. During your last deposition, you failed to mention Mr. Electores' investigation. Since your last deposition, are there any other facts or identities of any other individuals that you have learned regarding the investigation of the subject incident?

A. No. This is -- my deposition was pretty early on in this, and at that time we did not know about Mr. Electores. We learned about him afterwards. And since, I know there's no other information or no other people that I've learned about.

Q. Prior to your first deposition, had you discussed the investigation directly with Mr. Tempelis?

A. No, I had not. I was not able to get ahold of him.

Q. What were you relying on when you testified as to Mr. Tempelis' investigation?

A. I was relying on the information I got from my attorney and what he had looked at in our system. And it had indicated that he was the one who conducted the investigation because his name was at the bottom as who created it and who submitted it.

[DE 124-1 at 20:6-21:4].

As such, Plaintiff respectfully submits that, similar to the case of *Extreme Crafts VII, LLC v. Cessna Aircraft Co.*, No. 10-80292-CIV, 2011 WL 13227757 (S.D. Fla. June 24, 2011), Defendant should be required to submit an affidavit to clear up the evidentiary uncertainties. Plaintiff respectfully submits that Defendant's failure to cite to this testimony in its initial briefing, and its insistence to argue the issue without a sworn affidavit clearly stating whether or not any body camera footage of JOHN DOE ever existed, or whether Defendant even knows this or not, is troubling to Plaintiff, since Defendant was only able to identify Mr. Electores in the first instance because it did a more diligent inquiry, which Plaintiff respectfully submits that it should do here as well, given the extreme importance that JOHN DOE's appearance would have for her case. As the court in *Extreme Crafts VII* found,

Defendant states repeatedly that it has produced all emails in its possession and any emails Plaintiff now has that were not turned over in production were likely deleted under Defendant's 30-day email retention policy. While there is no reason to doubt this representation, Defendant is silent about the steps it took to preserve any existing emails when litigation became imminent on June 11, 2009. . . . Defendant and Defendant's counsel shall file affidavits **affirmatively stating** (1) whether Defendant has any emails responsive to Plaintiff's Second Requests for Production Nos. 2, 5, 17, and 18, and Third Request for Production No. 1, as limited by the Court above, that have not already been produced, and if so, why such emails were not previously produced, (2) the efforts Defendant undertook to locate emails responsive to these requests, and (3) the steps Defendant took to preserve emails to and from Plaintiff beginning on June 11, 2009. Such affidavits shall be filed within 5 days of this Order's date. . . . The Court will address Plaintiff's request for sanctions and spoliation claims following receipt of Defendant's affidavits and surreply.

Id. at \*3. As such, Plaintiff respectfully submits that a similar affirmative representation regarding the existence of the body camera footage is required from Defendant in this case, particularly given the circumstances of Defendant's failure to initially disclose Mr. Electores

himself (who had the knowledge of the body camera footage at issue, which triggered the instant spoliation motion), and if the footage did exist, the steps Defendant took to preserve this footage before it was lost/destroyed should be explained in this affidavit as well.

**WHEREFORE**, Plaintiff, DEBORAH REED, respectfully requests that this Honorable Court require Defendant to provide a sworn affidavit, as outlined above, and all other relief this Honorable Court deems just and appropriate.

**CERTIFICATE OF SERVICE**

We hereby certify that on February 8, 2021, we electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or *pro se* parties identified on the below Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

Respectfully submitted,  
**ARONFELD TRIAL LAWYERS**  
One Alhambra Plaza, Penthouse  
Coral Gables, Florida 33134  
Tel: (305) 441- 0440  
Fax: (305) 441 - 0198  
Attorneys for Plaintiff

By: /s/ Matthias M. Hayashi, Esq.  
Matthias M. Hayashi, Esq.  
Florida Bar Number: 115973  
mhayashi@aronfeld.com  
Spencer Marc Aronfeld, Esq.  
Florida Bar Number: 905161  
aronfeld@aronfeld.com  
Abby Hernández Ivey, Esq.  
Florida Bar Number: 1002774  
aivey@aronfeld.com