

# Man for the other team

Scores of law firms in Miami work solely for cruise companies but one maritime lawyer there has found himself a niche by working for the other side.

Liz Shuker

Miami

Miami-based attorney James Walker has become an outspoken and energetic opponent of the way cruise lines handle crew injury and sexual assault cases.

Walker, a poacher turned gamekeeper who in 1999 handed in his ticket as a defence attorney to become a plaintiff's lawyer, says cruise lines are not doing enough to combat assaults by crew.

He claims the lines are at risk of future federal regulation unless they deal with the issue. "Sexual assault is a real problem for the lines," he said. "And you would think they would be interested in resolving these cases quickly but they fight them tooth and nail."

The lid arguably came off cruise-ship sexual assaults in 1999 when Carnival Corp was ordered by a Miami court to publish a list of attacks reported in the previous five years.

The result of 109 assaults shocked the industry.

Lines have since introduced zero-tolerance policies designed to crack down on incidents. Walker believes, however, these are primarily marketing tools aimed at reducing the lines' liabilities, more than preventing or solving assault cases. "The way ships are handling cases is as bad as ever. There is a primary denial among the lines. Cases are often brushed off as consensual or it's claimed they didn't happen," he said.

One of the problems, says Walker, is that shore-based policies and the good intentions of company executives often do not reach the ship. Even nowadays, the master often rules the vessel and action taken immediately after an allega-

tion may be down to his particular whim and cultural notions.

Walker himself believes lines will never fully solve the issue until they hire independent security forces for vessels.

An alternative — unwanted by the lines — is government intervention. "If cruise lines can't police themselves, they risk federal regulation along the lines of pollution and shipboard dumping," warned Walker.

Right now his hunch is that there is no economic incentive for change. At present, most cases settle at below \$100,000 when the cruise lines routinely put aside \$10m to \$15m a year to cover all personal claims. This compares with the \$50m to \$100m spent on marketing.

However, that could change given recent developments.

In November last year, a female passenger was awarded \$1m by a federal jury in a case against Celebrity after alleging sexual assault by a male crew member on board the *Zenith* in 1999. Another suit against Celebrity is currently going through the Miami courts.

In the meantime, Walker is angry that the International Council of Cruise Lines (ICCL) is working to exchange crew information to combat terrorist risk but does not see fit to do the same for sexual assaults. "A crew member can re-apply to another line and 60 days later he's back serving drinks," said Walker.

The ICCL had little to say when asked to comment on Walker and his views. A spokeswoman replied simply: "May I ask, what are the credentials of James Walker to critique the industry's policy?"



**OTHER TEAM:** Not the owner, Carnival, but these passengers, or any of the crew serving them, on "Voyager of the Seas" are potential clients for James Walker (inset).

## Attorney joins pack of wolves

James Walker says he is now firmly part of the "pack of wolves" — the small group of lawyers that prosecute, rather than defend, cruise lines.

He cheerily admits that when he was on the other side of the table, they seemed like the great unwashed — a little "dodgy" and "haggard", as he puts it. Miami has never been short of defence lawyers. Some 100 firms in Miami alone work for cruise lines and protection-and-indemnity (P&I) clubs.

So when it came time to strike out on his own, Walker decided more opportunities lay in being a plaintiff's attorney. He believes he is the only lawyer to have practiced on both sides. It was not an option to do both. "When I was making the transition, a P&I club found out I was suing on behalf of a crew member. Next thing I got a fax asking me to clear my files," he said.

Walker's background may have prepared him for an unconventional life. Though American, his

family travelled widely and was based in Libya for most of his childhood and teens. Living in the port town of Tripoli, where his father worked in the oil industry, gave him

a romantic view of the sea and seafaring, he says. He studied maritime law at Tulane University in New Orleans.

From there, he progressed to Fowler White, one of New Orleans's leading admiralty firms, a breeding ground for many defence lawyers.

His next stint was with a large corporate firm based in Miami that represented Dolphin Cruises and Imperial Majesty Cruises. When the two cruise firms went out of business in the late 1990s, Walker was left without any clients, prompting him to set up his own business.

He reckons just eight to 10 firms in Miami specialise in representing crew and passengers and admits the sector may have got a bad rap because of some "bogus and exaggerated" claims. But Walker says it is not in his interests to represent such cases.

"The last thing a lawyer wants to take on is a bogus case because the cruise lines have the resources to finish it off," he said.

As well as proving to be an outspoken critic of the lines, Walker also took a gamble with his own marketing strategy. From the start, he took the decision to advertise only on the Internet.

The plan seems to have worked. Foreign crew members, returning home after injury, were able to find his website [www.cruiselaw.com](http://www.cruiselaw.com) and appoint him to act for them by e-mail.

Indeed he says the Internet has allowed crew members to locate lawyers in the US, where they simply could not find or visit in person.

Walker may be genial company but he remains outspoken and forthright on what he sees as a dereliction of duty by the cruise lines.

"Look at the cruise lines and how little they provide in benefits compared to other US corporations. There is very little money invested in staff well-being," he said. "Some are earning \$1bn a year and paying very little tax. But you'd think they were teetering on the edge of bankruptcy, the way they treat their crew members."

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Photos: Reuters, L Shuker

### SEXUAL ASSAULT

Recent cases against the cruise lines

#### February 2003

A female passenger on board a **Carnival** cruise ship said she was raped by an Indonesian crew member. The victim alleged Made Wirawan used a master key to enter her cabin. Wirawan was detained by Carnival's ship security, then arrested

and jailed in Fort Lauderdale on charges of sexual battery and burglary.

#### December 2002

A female youth counsellor on the "Millennium" filed suit against **Celebrity** Cruises, alleging she was sexually assaulted and battered by two Greek crew members — a plumber and an air conditioning technician.

She claims Celebrity failed to provide her with medical treatment and counselling or preserve evidence from the crime scene. The lawsuit also alleges Celebrity failed to perform adequate background checks on employees and was negligent by ignoring prior complaints of sexual harassment and assaults on its ships.

The two crew members were arrested in November by the Bahamian Police on

charges of rape. They are awaiting trial.

#### November 2002

A female passenger was awarded \$1m by a federal jury in a case against **Celebrity** for sexual assault by a crewman on board the *Zenith* in 1999.

In both the "Millennium" and "Zenith" cases, lawyers claim Celebrity failed to collect forensic evidence or perform a rape

kit analysis and failed to administer antiviral medicine or antibiotics for prevention against HIV and sexually transmitted diseases.

After both assaults, Celebrity took steps to prevent the victims from receiving appropriate medical care and counselling and attempted to cover up the crimes to protect the cruise line's image, say attorneys.

#### March 2001

**Carnival** lost its bid to dismiss the claim of a mentally handicapped passenger who said she was assaulted and impregnated by an entertainer on the "Sensation" in 1995. Carnival argued that her suit was invalid because it was not filed within a year of the incident. A court ruled that a mentally incompetent person had three years to file.