

STATUTES OF LIMITATIONS: WHAT IS THIS AND WHEN DO I HAVE TO ACT?

I got a call the other day from an attorney in Pennsylvania. He said that his client was raped (“sexually assaulted”) on a cruise ship and that she-the client- had reported it to the FBI. So far, the client did what she should have done.

Then he said that the sexual assault took place about 2 ½ years ago. Oops. I told the lawyer that the one year statute of limitations in her ticket (the cruise line “passenger contract ticket”) had passed and there is nothing I could do now. It is too late to bring a claim.

The cruise lines have included in the fine print on all of the passenger tickets the terms under which you have to bring a claim against them. They say **when** (usually within one year of the accident or incident) and **where** (Miami, Florida if it is Carnival Cruise Lines, Norwegian Cruise Lines, Royal Caribbean Cruise Lines, or Celebrity Cruise Lines). By the way, in order to bring a claim in Florida, it is best to contact a Florida attorney. Each state licenses attorneys to practice only in that state.

Then I asked why she waited so long. He said that the passenger was told by the FBI agent investigating the rape that the statute of limitations was 3 years. Oh well. So much for advice from someone who is not a maritime lawyer. (It is true generally that the statute of limitations for maritime claims is 3 years. However, the cruise lines can limit that to one year, and of course they do in the ticket terms).

This is **not** meant to be legal advice or to explain everything about statutes of limitations or something you can rely on to determine what your statute of limitations is. To know about that, call a lawyer who knows about the field in which you have a claim.

But here are some of the concepts: The “statute of limitations” for a claim is a general term which means the time within which you have to file a lawsuit. First, it is not always expressed in a statute. Sometimes it is in a contract like a passenger ticket. And there are provisions in some statutes, commonly in medical malpractice statutes, that it starts (“begins to run”) from when you knew or should have known about the medical malpractice. This does not apply to claims for medical malpractice against the cruise lines.

Second, there are different periods of time or statutes of limitations for different types of claims, and the statute can be different in each state. Generally, for maritime seaman’s claims the statute is 3 years; for passengers it is 1 year. Generally, in Florida, for general negligence it is 4 years; for wrongful death it is 2 years; and for medical malpractice it is 2 years.

Third, the only way to stop the clock, beat the deadline, or as the law says “toll the statute” is to **file a lawsuit**. The clock is not stopped just by reporting the accident. You have to file suit. That means that you have to contact an attorney in time for him or her

to evaluate and investigate the claim and to prepare and file a complaint in court. If you wait until the day the statute runs out or the day before it may be too late to do anything.

The best way to determine the statute of limitations is to **call an attorney** and to tell him or her about your case. The attorney will tell you. Do not rely on someone else or the internet or this blog even. Call the attorney's office today. You can call us here at Hickey Law Firm, P.A. **toll free at 1.800.215.7117.** Thanks.