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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

CHARLES HOELZEL,  
Plaintiff,  
v.  
PRINCESS CRUISE LINES, LTD.,  
Defendant.

Case No.: CV 23-2496-CBM-SPx

**ORDER RE: DEFENDANT’S  
MOTION TO DISMISS  
PLAINTIFF’S FIRST AMENDED  
COMPLAINT [21]**

The matter before the Court is Defendant’s Motion to Dismiss Plaintiff’s First Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). (Dkt. No. 21 (the “Motion”).)

**I. BACKGROUND**

This action arises from an incident on May 31, 2023 during which pro se Plaintiff Charles Hoelzel was allegedly tackled by a security officer employed by Defendant Princess Cruise Lines Ltd. while attempting to disembark from a cruise ship in Juneau, Alaska. On November 27, 2023, Plaintiff filed the instant action asserting two causes of action for (1) battery; and (2) violation of Civil Rights under 18 U.S.C. § 113 and 18 U.S.C. § 241. (Dkt. No. 1.) On December 11, 2023, the Court issued an order postponing a ruling on Plaintiff’s request to proceed in forma pauperis (“IFP Request”) for 30 days on the ground Plaintiff had

1 not submitted enough information for the Court to determine whether he was able  
2 to pay the filing fees, and ordered Plaintiff to file another IFP Request explaining  
3 his inability to pay the filing fee. (Dkt. No. 6 (the “December 11, 2023 Order”).)  
4 The Court also noted in the December 11, 2023 Order that the Complaint alleged  
5 this Court has jurisdiction over the matter under 28 U.S.C. § 1331, but asserted a  
6 state claim for battery and a claim for violation of civil rights based on two  
7 criminal statutes (18 U.S.C. § 113 and 18 U.S.C. § 241) which provide no basis  
8 for civil liability. (*Id.*) Accordingly, the Court ordered Plaintiff to file an  
9 amended complaint establishing the Court’s jurisdiction under 28 U.S.C. § 1331,  
10 and ordered that the amended complaint “must provide detailed factual allegations  
11 about the battery, including the location where it occurred,” and stated the failure  
12 to file an amended complaint within 30 days of the order would result in dismissal  
13 of the action. (*Id.*) On January 8, 2028, Plaintiff filed the First Amended  
14 Complaint (“FAC”) which asserts the following two causes of action: (1) battery;  
15 and (2) “Violation of Civil Rights under assaults within Maritime and Territorial  
16 Jurisdiction for Use of Excessive and Unreasonable Force (18 U.S. Code § 113 &  
17 18 U.S.C. § 241).” (Dkt. No. 8.)<sup>1</sup> The FAC includes a new allegation regarding  
18 the location of the alleged battery (*see* FAC ¶ 11).

## 19 II. STATEMENT OF THE LAW

20 The court may dismiss a complaint for “failure to state a claim upon which  
21 relief can be granted” pursuant to Federal Rule of Civil Procedure 12(b)(6).  
22 Dismissal of a complaint can be based on either a lack of a cognizable legal theory  
23 or the absence of sufficient facts alleged under a cognizable legal theory.  
24 *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1990). On a  
25 motion to dismiss for failure to state a claim, courts accept as true all well-pleaded  
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27 <sup>1</sup> On January 24, 2024, the Court denied Plaintiff’s request to proceed in forma  
28 pauperis on the basis Plaintiff had the ability to pay the filing fee. (Dkt. No. 10.)  
On February 2, 2024, Plaintiff paid the filing fee for this action. (Dkt. No. 11.)

1 allegations of material fact and construes them in a light most favorable to the  
2 non-moving party. *Manzarek v. St. Paul Fire & Marine Ins. Co.*, 519 F.3d 1025,  
3 1031-32 (9th Cir. 2008). To survive a motion to dismiss, the complaint “must  
4 contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is  
5 plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 663, (2009) (quoting *Bell*  
6 *Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). A formulaic recitation of  
7 the elements of a cause of action will not suffice. *Twombly*, 550 U.S. at 555.  
8 Labels and conclusions are insufficient to meet the Plaintiff’s obligation to  
9 provide the grounds of his or her entitlement to relief. *Id.* “Factual allegations  
10 must be enough to raise a right to relief above the speculative level.” *Id.* If a  
11 complaint cannot be cured by additional factual allegations, dismissal without  
12 leave to amend is proper. *Id.* A court may consider the allegations contained in  
13 the pleadings, exhibits attached to or referenced in the complaint, and matters  
14 properly subject to judicial notice in ruling on a motion to dismiss. *Tellabs, Inc. v.*  
15 *Makor Issues & Rights, Ltd.*, 551 U.S. 308, 322 (2007); *U.S. v. Ritchie*, 342 F.3d  
16 903, 908 (9th Cir. 2003); *In re Stac Elec. Sec. Litig.*, 89 F.3d 1399, 1405 n.4 (9th  
17 Cir. 1996). Moreover, “[a] document filed *pro se* is to be liberally construed and a  
18 *pro se* complaint, however inartfully pleaded, must be held to less stringent  
19 standards than formal pleadings drafted by lawyers.” *Erickson v. Pardus*, 551  
20 U.S. 89, 94 (2007) (internal quotations and citation omitted).

### 21 III. DISCUSSION

#### 22 A. Violation of Civil Rights (Second Cause of Action)

23 Plaintiff’s second cause of action asserts civil rights violations pursuant to  
24 18 U.S.C. § 113 and 18 U.S.C. § 241, which are criminal statutes that do not  
25 provide a basis for civil liability. *See Allen v. Gold Country Casino*, 464 F.3d  
26 1044, 1048 (9th Cir. 2006); *Best v. Sonoma Cnty. Sheriff’s Dept.*, 2020 WL  
27 5517192, at \*8 (N.D. Cal. Sept. 2020); *Risley v. Hawk*, 918 F. Supp. 18, 21 (D.  
28 D.C. 1996). Therefore, the Court dismisses Plaintiff’s second cause of action with

1 prejudice.

2 **B. Battery (First Cause of Action)**

3 The only other cause of action asserted in the FAC is Plaintiff's first cause  
4 of action for battery. While the instant Motion was brought pursuant to Federal  
5 Rule of Civil Procedure 12(b)(6), Defendant does not argue Plaintiff fails to plead  
6 sufficient facts to state a claim for battery. Instead, Defendant contends despite  
7 the additional allegation in paragraph 11 of the FAC regarding the alleged location  
8 of the incident, the Court should dismiss the FAC and order Plaintiff to amend the  
9 FAC to "properly invoke admiralty jurisdiction."

10 Federal district courts have original jurisdiction over "[a]ny civil case of  
11 admiralty or maritime jurisdiction." 28 U.S.C. § 1333(1). "[A] party seeking to  
12 invoke federal maritime jurisdiction over a tort claim must satisfy both a location  
13 test and a connection test." *Gruver v. Lesman Fisheries Inc.*, 489 F.3d 978, 982  
14 (9th Cir. 2007) (citing *Jerome B. Grubart, Inc. v. Great Lakes Dredge & Dock*  
15 *Co.*, 513 U.S. 527, 534 (1995)). "The location test focuses on 'whether the tort  
16 occurred on navigable water or whether injury suffered on land was caused by a  
17 vessel on navigable water.'" *Id.* (quoting *Grubart*, 513 U.S. at 534). "The  
18 connection test has two prongs, each of which must be met for admiralty  
19 jurisdiction to be proper: 'A court, first, must assess the general features of the  
20 type of incident involved to determine whether the incident has a potentially  
21 disruptive impact on maritime commerce[.]'" *Id.* "The second prong of the  
22 connection test requires us to examine 'whether the general character of the  
23 activity giving rise to the incident shows a substantial relationship to traditional  
24 maritime activity.'" *Id.* "To warrant" federal maritime jurisdiction under the  
25 second prong of the connection test, "the tortfeasor's activity must be 'so closely  
26 related to activity traditionally subject to admiralty law that the reasons for  
27 applying special admiralty rules would apply.'" *Id.* at 983 (quoting *Grubart*, 513  
28 U.S. at 539). The "incident" for purposes of the first prong of the connection test

1 and the “activity giving rise to the incident” for purposes of the second prong of  
2 the connection test cannot be identical. *Id.* at 984.

3 As to the location test, the FAC added an allegation that the alleged battery  
4 occurred “at the Juneau Port in Juneau Alaska” when “multiple security personnel  
5 employed by Defendant stood in front of the Plaintiff and friend and wouldn’t  
6 allow the Plaintiff and friend to leave the ship on American soil.” (FAC ¶ 11.)  
7 Because the alleged battery occurred at a port while Plaintiff was aboard a cruise  
8 ship, the alleged tort occurred on navigable waters which satisfies the location test.  
9 *See Kermarec v. Compagnie Generale Transatlantique*, 358 U.S. 625, 626–28  
10 (1959); *Gruver*, 489 F.3d at 982; *Doe v. Celebrity Cruises, Inc.*, 394 F.3d 891, 901  
11 (11th Cir. 2004) (citing *Norfolk Southern Railway Co. v. Kirby*, 125 S.Ct. 385, 388  
12 (2004)); *Lipkin v. Norwegian Cruise Line Ltd.*, 93 F. Supp. 3d 1311, 1318 (S.D.  
13 Fla. 2015); *Gonzales v. O/S Vessel Brazos Pilot*, 56 F. Supp. 2d 770, 772 (S.D.  
14 Tex. 1999), *aff’d*, 229 F.3d 1148 (5th Cir. 2000).

15 Under the first prong of the connection test, the Court must determine  
16 whether “the incident has a potentially disruptive impact on maritime commerce.”  
17 *Gruver*, 489 F.3d at 982. Here, the alleged “incident” is the battery of Plaintiff by  
18 security officers employed by Defendant when Plaintiff was attempting to  
19 disembark the ship. The Court finds the alleged battery “has a potentially  
20 disruptive impact on maritime commerce” because cruise ship business could  
21 potentially suffer if passengers become concerned about assault and battery by  
22 crew members. *See, e.g., Celebrity Cruises*, 394 F.3d at 900; *Lipkin*, 93 F. Supp.  
23 3d at 1318.

24 With respect to the second prong of the connection test, the Court must  
25 determine “whether the general character of the activity giving rise to the incident  
26 shows a substantial relationship to traditional maritime activity.” *Gruver*, 489  
27 F.3d at 982. Here, the “activity giving rise to the incident” is Plaintiff’s attempt to  
28 disembark the ship in Juneau, Alaska. (*See* FAC ¶ 10 (alleging Plaintiff “decided

1 to disembark two ports of call early”); *id.* ¶¶ 11, 12, 14 (alleging “[d]uring the  
2 disembarkation in Juneau, Alaska multiple security personnel employed by  
3 Defendant stood in front of the Plaintiff and friend and wouldn’t allow the  
4 Plaintiff and friend to leave the ship on American soil,” “Defendants [sic] security  
5 guards took the luggage out of Plaintiff’s hands forcefully,” and “a security guard  
6 manager named ‘Rex’ employed by the Defendant was the one who tackled the  
7 Plaintiff from behind”).) The general character of a passenger attempting to  
8 disembark a cruise ship has a substantial relationship to traditional maritime  
9 activity. *See, e.g., Celebrity Cruises, Inc.*, 394 F.3d at 900, 902; *Lipkin*, 93 F.  
10 Supp. 3d at 1318.

11 Therefore, liberally construing pro se Plaintiff’s FAC, the Court finds  
12 Plaintiff pleads sufficient facts in the FAC demonstrating this Court has federal  
13 admiralty jurisdiction over Plaintiff’s battery claim. *Erickson*, 551 U.S. at 94.

#### 14 IV. CONCLUSION

15 Accordingly, the Court:

- 16 (1) **GRANTS** Defendant’s Motion to Dismiss Plaintiff’s second  
17 cause of action for violation of civil rights and dismisses that  
18 claim **with prejudice** because 18 U.S.C. § 113 and 18 U.S.C. §  
19 241 do not provide a basis for civil liability; and  
20 (2) **DENIES** Defendant’s Motion to Dismiss the FAC based on  
21 Plaintiff’s failure to invoke federal admiralty jurisdiction.

22 Therefore, the remaining cause of action is Plaintiff’s first cause of action for  
23 battery over which the Court has federal admiralty jurisdiction.

24 **IT IS SO ORDERED.**

25 DATED: June 4, 2024.

26   
27 **CONSUELO B. MARSHALL**  
28 **UNITED STATES DISTRICT JUDGE**