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MARVIN KATKO, Appellee v. EDWARD BRINEY and BERTHA L. BRINEY, Appellants No. 54169 - February 9, 1971, Filed Supreme Court of Iowa “ The Mahaska District Court (Iowa), upon a jury verdict awarding actual and punitive damages to plaintiff in an action resulting from injuries suffered by trespassing plaintiff when he triggered a spring gun placed in an uninhabited house by defendant owners” (Harold Fleck). According to the facts of this case, a 20-gauge spring shotgun was set by the defendants in their farmhouse that was uninhabited for several years, to protect their property from intruders. As a part of our Human Right (Article 6 - Bill of Rights), every person has the right to protect himself and his property from any unlawful acts. When the appellee (Katko) trespassed on the uninhabited house to steal old bottles and fruit jars, which cost less than \$20, gives the implication that the owner of the said house has the right to impose self defense for their property against him (appellee) and his companion. Adhering to the principle of self defense, then the defendants are right to say that they have the right to defend their property. What would be erroneous so speak is the means employed to protect their belongings. One of the requisites of self-defense is the “ reasonable necessity of the means employed.” Using shotgun that could inflict serious physical injuries or even death defies this requisite in self defense knowing the fact that it could not even put the lives of the owners at risk because, as mentioned, it has been uninhabited for several years. As one of the justice who concurs, Moore, said “ the primary issue presented here is whether an owner may protect personal property in an unoccupied boarded-up farm house against trespassers and thieves by a spring gun capable of inflicting death or serious injury.” Thus, the means employed (the shotgun) is too ruthless to use in defending an unoccupied old

farm house from trespassers. Kalendareva (appellant) v Discovery Cruise Line Partnership (appellee), 798 So 2d 804 October 24, 2001, Opinion Filed COURT OF APPEAL OF FLORIDA, FOURTH DISTRICT The primary duty of a cruise ship and any other passenger transportation to its passengers is to secure them at all cost and at all times until they have arrived in their respective destination. For as long as the commuter avails and the ticket of the company, it implies that he/she already made a contract between them, thus the transportation company is already obliged to deliver safely the passenger (Dickerson, 2000). Moreover, there are specific provisions in terms of liabilities and responsibilities that varies depending upon the company's terms and conditions. In the case of Kalendareva vs. Discovery Cruise Line Partnership, it is essential to recognize who and what is the situation when the accident happens. This is to distinguish whether or not, the company itself or the manger/boss of the culprit must also be held liable. Employing the master-servant doctrine, any officer handling the malefactor is also deemed to be liable. Thus, he (higher officer) can only be excluded from liabilities only if he proves himself to be responsible enough in managing his people and that the felonious act of recklessness and negligence is beyond his control. Despite the fact that the appellee's defense of the unnoticed dangerous condition and no evidence that he (ship owner) noticed the accident which caused the injury of the appellant, the court mentioned that he must be more responsible and the degree of care must be sufficient to protect its passenger. Thus, the verdict is reversed and a new trial is remanded. Queries regarding the passenger's ability to recover, I believe she will. Looking at the facts of the case, she was still in the ship when the accident happened. The owner as well as the employees know that

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there were still people inside their vessel and that they should have at least warn them to keep distance near the edge where ropes are thrown. Though it was tossed in the second deck, they should also consider the fact that it could possibly reach the third deck too. This failure of the company to at least warn the passenger caused injury to one of the commuter must be liable for reckless imprudence resulting to physical injury. Reference Dickerson, Thomas. "The Cruise Passenger's Rights & Remedies: 2006." Class Action Litigation Information. 17 September 2006. < <http://www.classactionlitigation.com/library/cruisepassengersrightsremedies2006.html>> Dirk. "Katko v. Briney Supreme Court of Iowa, 1971." 4LawNotes. Com. 26 February 2009. < <http://www.4lawnotes.com/showthread.php?t=1019>> Lipcon, Margulies. "New trial granted where directed verdict entered against a passenger claim that she was struck by a mooring line while sitting on a deck of the ship." Cruise Ship Law Blog. 1 October 2001, < http://blog.lipcon.com/2001/10/new_trial_granted_where_direct.html>