UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

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December 20, 2021

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 20-12407-DD ; 20-12960 -BB ; 20-14251 -BB
Case Style: Mario Del Valle, et al v. Trivago GMBH, et al
District Court Docket No: 1:19-cv-22619-RNS

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The enclosed order has been ENTERED.

Please see 11th Cir.R. 29-2 for amicus brief compliance.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Bradly Wallace Holland/aw, DD
Phone #: 404-335-6181

MOT-2 Notice of Court Action

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 20-12407-DD

MARIO DEL VALLE,
ENRIQUE FALLA,
ANGELO POU,

Plaintiffs - Appellants,

versus

TRIVAGO GMBH,
a German Limited Liability Company,
BOOKING.COM B.V.,
a Dutch Limited Liability Company,
GRUPO HOTELERO CARIBE,
CORPORACION DE COMERCIO Y TURISMO
INTERNACIONAL CUBANACAN S.A.,
GRUPO DE TURISMO GAVIOTA S.A.,
RAUL DOE 1-5,
MARIELA ROE 1-5,
EXPEDIA, INC., et al.,

Defendants - Appellees.

No. 20-12960-BB

JAVIER GARCIA-BENGOCHEA,

Plaintiff - Appellant,

versus

CARNIVAL CORPORATION,
a foreign corporation
d.b.a. Carnival Cruise Lines,

Defendant - Appellee.

No. 20-14251-BB

JAVIER GARCIA-BENGOCHEA,

Plaintiff - Appellant,

versus

ROYAL CARIBBEAN CRUISES, LTD.,

Defendant - Appellee.

On Appeal from the United States
District Court for the Southern District of Florida

BEFORE: JORDAN, NEWSOM, and BURKE,* District Judge.

BY THE COURT:

The Court invites the United States – through the Attorney General, the Solicitor General, and/or the Office of the Legal Adviser to the State Department – to file an amicus brief in *Mario Del Valle, et al., v. Trivago GMBH, et al.*, No. 20-12407 (argued Oct. 4, 2021), *Javier Garcia-Bengochea v. Carnival Corporation*,

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* The Honorable Liles C. Burke, United States District Judge for the Northern District of Alabama, sitting by designation.

No. 20-12960 (argued Oct. 4, 2021), and *Javier Garcia-Bengochea v. Royal Caribbean Cruises, LTD.*, No. 20-14251 (argued Oct. 4, 2021), pursuant to Fed.R.App.P. 29(a).

The Court invites the United States to address the following questions concerning the Helms-Burton Act, 22 U.S.C. § 6082:

1. Does the term "United States national" in 22 U.S.C. §§ 6082(a)(4)(B) and 6082(a)(4)(C) refer to the plaintiff bringing the action, or the original claimant to the confiscated property, or both?

2. What does the word "acquire[ ]" in 22 U.S.C. § 6082(a)(4)(B) mean? Is inheritance encompassed in the term "acquire[ ]?" And if "acquire[ ]" does include inheritance, at what point is a claim "acquire[d]" by an heir within the meaning of the statute?

3. How, if at all, does the phrase "assignment for value" in 22 U.S.C. § 6082(a)(4)(C) affect the pool of eligible claimants compared to the pool of eligible claimants under 22 U.S.C. § 6082(a)(4)(B)?

4. What effect, if any, does the President's ability to suspend Title III pursuant to 22 U.S.C. § 6085(b) have on defining the class of eligible claimants who can bring an action under 22 U.S.C. § 6082(a)(4)? Does the President's ability to suspend Title III imply that the statute was drafted to allow the heirs of American citizens – whose property was unlawfully confiscated and "trafficked" by third parties – to bring claims under 22 U.S.C. § 6082(a)(4)?

5. What effect, if any, does the lawful travel exception, 22 U.S.C. § 6023(13)(B)(iii), have on the plaintiffs' claims? What effect, if any, does the possibility that the Office of Foreign Assets Control (OFAC) can change the permissible reasons for travel to Cuba have on the lawful travel exception?

6. What does the phrase "incident to lawful travel" in 22 U.S.C. § 6023(13)(B)(iii) mean? Who or what defines "lawful travel" (e.g. OFAC)?

> What guidance should persons and entities look to in determining whether their activities are "incident to lawful travel?"

The Court asks that the United States file its amicus brief by February 25, 2022, at which time the parties in the cases will be permitted to respond. Should the United States elect not to file an amicus brief, it should so notify the Court by January 25, 2022.