UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.: 1:19-cv-21724-BLOOM/MCALILEY

HAVANA DOCKS CORPORATION,

Plaintiff,

vs.

CARNIVAL CORPORATION,

Defendant.
_____ /

PLAINTIFF HAVANA DOCKS CORPORATION'S STATEMENT OF MATERIAL FACTS IN SUPPORT OF ITS INDIVIDUAL MOTION FOR SUMMARY JUDGMENT AGAINST CARNIVAL CORPORATION

1. Carnival Corporation ("Carnival") is a foreign corporation that maintains its principal place of business in Miami-Dade County, Florida. (ECF No. 160, ¶ 2.)

2. Carnival Cruise Lines ("CCL") has been a division and brand of Carnival's since at least 2016 through the present. (ECF No. 308-1, at 11:15-12:6, 16:8-18:15; ECF No. 308-19, at 2; ECF No. 308-20, at 2; ECF No. 308-21, at 2; ECF No. 308-9, at 9:23-10:4.)

3. HAL Nederland N.V. ("HAL") has been a subsidiary of Carnival's since at least 2016 to the present. (ECF No. 160, ¶ 2; ECF No. 308-9, at 9:23-10:9.)

4. Costa Crociere S.p.A. ("Costa") has been a subsidiary of Carnival since at least 2000 through the present. (ECF No. 160, ¶ 2; ECF No. 308-13, at 64:9-65:7; ECF No. 311-17, at 2.)

5. Fathom Travel Ltd. ("Fathom") was a subsidiary of Carnival plc at the time of its cruises to Cuba. (ECF No. 160, ¶ 2.)

6. In 1996 Carnival acquired a 29% equity interest in Airtours plc ("Airtours"), a tour operator that also operated cruise ships under the Sun Cruises brand, by purchasing 20,000,000 Ordinary Shares through a subscription agreement directly with Airtours and through a partial offer for an additional 20,000,000 Ordinary Shares. (ECF No. 308-9, at 37:24-38:24, 55:17-55:23; ECF No. 308-13, at 8:21-9:5, 12:2-32:22, ECF No. 311-17, at 2; ECF No. 311-18, at 19-20, ECF No. 311-19, at HavanaDocks_0476415-434; ECF No. 311-20, at HavanaDocks_0476435-0476444; ECF No. 311-21, at HavanaDocks_0476445-453; ECF No. 311-22, at HavanaDocks_0476454-484; ECF 160, at ¶ 24.)

7. Throughout the time that Carnival held its equity interest in Airtours, Carnival was the largest shareholder of Airtours, with Arison, Carnival's then CEO and Chair of the Board of Directors, and Howard Frank ("Frank"), Carnival's then Vice Chair and Chief Operating Officer, serving as members of Airtours' Board of Directors. (ECF No. 308-13, at 33:3-18, 48:12-53:10; ECF No. 310-44, at 4, 5, 6, 33, and 36.)

8. Throughout the time that Carnival held its equity interest in Airtours, Airtours became part of Carnival's "affiliated cruise operations," with Carnival including the revenues earned by Airtours on its consolidated financial statement in an amount proportional to the percentage of its equity investment in Airtours. (ECF No. 308-9, at 51:21-53:3, 54:16-55:15; ECF No. 309-47, at 4, 16.)

9. On June 1, 2001, Carnival sold its equity interest in Airtours resulting in a non-operating profit of approximately $100 million and net cash proceeds of approximately $492 million. (ECF No. 308-13, at 23:21-27:9; ECF No. 311-17, at 2.)

10. In June 1997 Carnival acquired a 50% equity interest in Costa with Airtours acquiring the other 50%, giving Carnival beneficial ownership of a 63% interest in Costa from June 1997 through September 2000 due to its equity ownership interest in Airtours. (ECF 322-4, at 4-5; ECF No. 308-13, at 64:9-65:7; ECF No. 311-17, at 2; ECF No. 308-9, at 60:5-12; ECF No. 309-47, at 3-4.)

11. In September 2000, Carnival completed the acquisition of the remaining 50% interest in Costa from Airtours. (ECF No. 308-13, at 61:9-63:19; ECF No. 311-17, at 3.)

12. From June 1997 to September 2000, Carnival named 50% of the members of Costa's Board of Directors, with Arison and Frank becoming members of the Costa Board of Directors. (ECF No. 308-13, at 59:7-61:7; ECF No. 311-17, at 3; ECF No.308-5, at 100:10-25; ECF No. 308-9, at 61:14-63:11.)

13. From June 1997 to September 2000, Costa became part of Carnival's "affiliated cruise operations," with Carnival including the revenues earned by Costa on its consolidated financial statement in an amount proportional to the percentage of its equity investment in Costa. (ECF No. 308-5, at 100:3-9; ECF No. 322-4, 7; ECF No. 309-47, at 16.)

14. Carnival has been aware of the LIBERTAD Act since shortly after it was passed in 1996, including that the law has a provision regarding liability for trafficking in confiscated property. (ECF No. 308-3, at 14:24-15:22; ECF No. 308-41, at 2.)

15. Carnival was aware of a certified claim with regard to the Havana Port Terminal since approximately 1996. (ECF No. 322-2, at 4-5 (RFA Nos. 1-2).)

16. Carnival knew as of 2012 of the existence of Certified Claim CU-2492 ("the Certified Claim") (ECF No. 322-2, at 6 (RFA No. 7); ECF No. 308-2, at 34:6-39:25; ECF No. 308-29, at 8.)

17. Carnival's ships docked at the Havana Port Terminal to disembark and embark passengers. (ECF No. 308-3, at 72:2-73:10; ECF No. 308-41, at 7.)

18. Carnival's ships intentionally used, and it intentionally entered into commercial transactions (including contracts) with the Cuban Government to use the Havana Port Terminal.

(ECF No. 308-8, at 224:4-225:22; ECF No. 308-2, at 63:12-70:16; ECF No. 308-31, at HavanaDocks_0358282-288.)

19. Throughout the time that Carnival held its equity interest in Airtours, Airtours' cruise ship "Sundream," which operated under its Suncruise brand, cruised to Havana and docked at the Havana Port Terminal. (ECF No. 308-13, at 37:19-38:10, 45:18-46:7; ECF No. 308-9, at 55:17-23.)

20. During the time that Carnival held its equity interest in Airtours, Carnival knew that Airtours' cruise ships operated in Cuba. (ECF No. 308-13, at 45:18-46:7; ECF No. 308-5, at 79:21-80:7, 84:14-23; ECF No. 308-9, at 58:2-12; ECF No. 322-2, at 33 (RFA No. 120).)

21. After Carnival acquired its interest in Costa in June 1997, with Carnival's knowledge, Costa's cruise ship the "Costa Playa" continued to cruise to Cuba and used the Havana Port Terminal until at least November 1997. (ECF No. 308-9, at 63:12- 64:18, 71:25-72:23; ECF No. 309-40, at 2; ECF No. 309-41, at 2; ECF No. 310-46, at HDC 018233-35; ECF No. 310-47, at HDC 018233; ECF No. 310-48, at Havana Docks__0484050-62; ECF No. 308-8, at 217:22-219:12; ECF No. 310-42, at Havana Docks_0484046-49; ECF No. 308-13, at 87:20-88:16; ECF No. 322-2, at 33 (RFA Nos. 121-123).)

22. After Carnival acquired its interest in Costa in 1997, with Carnival's knowledge, Costa continued to take part in a joint venture with the Cuban Government to manage the operations of the Havana Port Terminal until at least November 1997. (ECF No. 308-9, at 74:13-75:3; ECF No. 308-5, at 103:14-106:15.)

23. From May 2016 to April 2017 the Fathom cruise ship Adonia cruised to Cuba and docked at the Havana Port Terminal 31 times to disembark and embark its passengers. (ECF No. 322-2, at 18 (RFA Nos. 46, 48, 49).)

24. A total of 20,999 passengers are listed on the manifests of the cruises to Havana made by the Adonia. (ECF No. 322-2, at 18 (RFA No. 47).)

25. From December 2017 to April 2019 the HAL cruise ship Veendam cruised to Cuba and docked at the Havana Port Terminal 19 times to disembark and embark its passengers. (ECF No. 322-2, at 23-24 (RFA Nos. 70, 72, and 73).)

26. A total of 30,401 passengers are listed on the manifests of the cruises to Havana made by the Veendam. (ECF No. 322-2, at 23 (RFA No. 71).)

27. From June 2017 to on or about May 24, 2019 the CCL ships Paradise and Sensation cruised to Cuba and docked at the Havana Port Terminal 33 times to disembark and embark its passengers cruises. (ECF No. 322-2, at 28-29 (RFA Nos. 93, 95, 96), at 30-31 (RFA Nos. 104, 106, 107).)

28. A total of 76, 213 passengers are listed on the manifests of the cruises to Havana made by the Paradise and Sensation. (ECF No. 322-2, at 29 (RFA Nos. 94), at 30 (RFA No. 105).)

29. Carnival entered into a series of commercial contracts with Aries Transportes, S.A. ("Aries"), which is part of the Cuban Government's Ministry of Transportation serving as its port authority, for its ships to dock at the Havana Port Terminal. (ECF No. 322-2, at 19 (RFA No. 52), at 25 (RFA Nos. 81, 82), at 29 (RFA No. 99), at 31 (RFA No.110), at 35-36 (RFA Nos. 129-133); ECF No. 308-3, at 38:18-39:13, 49:4-50:2, 99:24-100:12; ECF No. 308-41, at 5; ECF No. 308-14, at 30:7-34:22; ECF No. 311-29, at HavanaDocks_0360875, 0397952; ECF No. 311-31, at ¶ 5; ECF No. 311-28, at HavanaDocks_0397970–HavanaDocks_0397984.)

30. Carnival entered into a series of commercial contracts with Empresa Consignatoria Mambisa ("Mambisa"), part of the Cuban Government Ministry of Transportation serving as its port agent, for its ships to use the Havana Port Terminal. (ECF No. 322-2, at 37 (RFA Nos. 140, 142, 143); ECF No. 308-3, at 39:15-40:15, 41:21-42:25, 50:3-21; ECF No. 308-41, at 5; ECF No. 311-31, at ¶ 4; ECF No. 322-6, at HavanaDocks_0358914-HavanaDocks_0358921.)

31. Carnival entered into a series of commercial contracts with Havanatur Celimar ABG ("Havantur"), part of the Cuban Government's Ministry of Tourism serving as its tour operator, related to its use of the Havana Port Terminal. (ECF No. 322-2, at 37-38 (RFA Nos. 144-148); ECF No. 308-3, at 42:1-3, 50:22-12; ECF No. 308-41, at 5; ECF No. 311-31, at ¶ 6; ECF No. 322-7, at HavanaDocks_0397852-HavanaDocks_0397862.)

32. Carnival paid a total of $18,629,807.71 related to its cruises to Cuba, with $12,461,542.99, $3,480,380.40, and $2,605,429.34 paid to the Cuban Government agencies Havanatur, Mambisa, and Aries, respectively. (ECF No. 308-14, at 40:4-44:25; ECF No. 311-30, at 2; ECF No. 322-2, at 36 (RFA Nos. 134-136), at 37 (RFA Nos. 140-141), at 37 (RFA No. 145).)

33. Carnival never made any payments in Cuba to anyone or any entity that was not affiliated with the Cuban Government. (ECF No. 308-7, at 39:11-16, 196:18-22, 198:15-20, 199:1-8; ECF No. 308-12, at 163:17-164:1; ECF No. 308-14, at 45:21-46:1.)

34. From at least as early as 2018 through, at least, 2020, Carnival provided technical recommendations and advice, regarding the renovation and enhancement of the Havana Port Terminal, including "devising a mooring for XL and Dream Classes (Captain Rasello's plan) for the projected expansion … [and the] proposal to remove most of pier 2 located in between of piers 1 and 3 (the ones to be developed)." (ECF No. 322-3, at 7-10 (RFA Nos. 21-37); ECF No. 310-38, at HavanaDocks_0484031; ECF No. 310-27, at HavanaDocks_0483805-07, HavanaDocks_0483817-20, and HavanaDocks_0483829.)

35. The "Updated Terminal Sierra Maestra Enhancement Plan" depicting the enhancement taking place at the Havana Port Terminal as of December 2020 is the same as that proposed by Carnival (Capt. Rasello's plan) in 2018. (ECF No. 308-15, at 138:7-140:1; ECF No. 310-23, at HavanaDocks_0396196-197; ECF No. 310-27, at HavanaDocks_0483805-807.)

36. Carnival earned money, or profited from, its cruises to Cuba. (ECF No. 322-2, at 24 (RFA Nos. 75, 76), at 29 (RFA No. 98), at 31 (RFA No. 109).)

37. The total net cruise revenue ($64,934,021) and shore excursion net revenue ($2,854,376) for the CCL ships that docked at the Havana Port Terminal was $67,788,397. (ECF No. 322-2, at 38 (RFA Nos. 149, 150); ECF No. 308-10, at 30:9-33:14, 38:1-13, 41:20-42:2; ECF No. 311-3, at HavanaDocks_0395249.)

38. The revenues for the cruises to Cuba by the Veendam from 2017 to 2019 was $51,877,490.67. (ECF No. 322-2, at 24 (RFA No. 78); ECF No. 308-10, at 74:16-19.)

39. The revenues for the cruises to Cuba on the Veendam that docked at the Havana Port Terminal from 2017 to 2019 was $44,496,253.86. (ECF No. 322-2, at 24 (RFA No. 77).)

40. The revenues from the cruises to Cuba on the Adonia that docked at the Havana Port Terminal totaled at least $4,047,742. (ECF No. 322-9, at 1-399; ECF No. 322-10, at 1-241.)

41. On February 11, 2019, Carnival received a letter from Rodney Margol, counsel for Havana Docks, informing Carnival that the property identified in the Certified Claim – the Havana Port Terminal – had been confiscated by the Cuban Government, that Carnival was trafficking on it, and demanding that Carnival stop its trafficking. (ECF No. 322-12, at HDC 018654-55; ECF No. 322-11, at HDC 018650-51; ECF No. 308-3, at 26:7-31:9; ECF No. 308-41, at 2.)

42. Carnival intentionally ignored the Margol Letter and made no effort to contact attorney Margol after receiving the letter. (ECF No. 308-3, at 31:5-9.)

43. Even though nothing precluded Carnival from contacting Havana Docks to get its authorization to use the Havana Port Terminal, Carnival never requested nor obtained the authorization of Havana Docks for it, its subsidiaries, its brands, or its affiliated cruise operations Airtours and Costa, to use in any way the Havana Port Terminal. (ECF No. 308-15, at 44:20-45:1; ECF No. 308-3, at 31:10-32:5; ECF No. 308-41, at 3; ECF No. 322-2, at 6-9 (RFA Nos. 9-16); ECF No. 308-13, at 95:20-24.)

44. In March 2019, Carnival estimated its damages under the LIBERTAD Act for trafficking on the Havana Port Terminal at $306 Million. (ECF No. 308-16, at 107:1-111:6; ECF No. 312-8, at HavanaDocks_0500196.)

45. The U.S. Government never told Carnival that using the Havana Port Terminal was necessary to the conduct of travel to Cuba. (ECF No. 322-3, at 11 (RFA No. 42).)

46. The U.S. Government did not require Carnival to cruise to Havana. (ECF No. 322-2, at 16-18 (RFA Nos. 40-45); ECF No. 308-11, at 51:1-5.)

47. The U.S. Government did not direct Carnival where to dock its ships in Cuba. (ECF No. 322-2, at 16-17 (RFA No. 41), at 17-18 (RFA Nos. 43-45); ECF No. 308-3, at 34:22-36:25; ECF No. 308-41, at 3.)

48. The Cuban Government did not tell Carnival that for a Carnival ship to cruise to Cuba it was necessary for the ship to dock at the Havana Port Terminal. (ECF No. 308-6, at 155:9-15.)

49. The Cuban Government did not require Carnival's ships in its travel to Cuba to use the Havana Port Terminal in order for Carnival to use any other port, dock, or anchorage site in Cuba. (ECF No. 308-3, at 59:7-15; ECF No. 308-9, at 193:1-21; ECF No. 322-2, at 21 (RFA No. 65), at 22 (RFA No. 66), at 27-28 (RFA No. 91).)

50. It was not necessary for a Carnival cruise ship to dock at the Havana Port Terminal to cruise to Santiago de Cuba, Cuba or Cienfuegos, Cuba. (ECF No. 308-7, at 17:3-16, 40:23-41:8, 134:17-20, 158:1-8, 175:20-176:24.)

51. The Cuban Government authorized the Adonia and the Veendam to cruise to Cuba without stopping in Havana or docking at Havana Port Terminal. (ECF No. 322-2, at 21 (RFA No. 65), at 27 (RFA No. 90).)

52. The Adonia and the Veendam operated cruises to Cuba that did not include stop in Havana or dock at the Havana Port Terminal. (ECF No. 322-2, at 21 (RFA No. 64), at 23 (RFA No. 67), at 26 (RFA No.88), at 27 (RFA No. 89).)

53. Carnival could, and did, dock its ships and embark and disembark its passengers at Santiago de Cuba and Cienfuegos. (ECF No. 322-2, at 19 (RFA No. 53), at 25-27 (RFA Nos. 83-89).)

54. Carnival's ships had the ability to, and did, anchor offshore and tender passengers in Cienfuegos and Santiago. (ECF No. 322-2, at 13 (RFA No. 28), at 20 (RFA Nos. 58, 59, 60), at 20-21 (RFA No. 61), at 26 (RFA Nos. 84, 85).)

55. From 2016 to 2017, the Adonia stopped at Cienfuegos a total of twenty-nine (29) times and in Santiago de Cuba 34 times. (ECF No. 322-2, at 19 (RFA Nos. 54, 55), at 19-20 (RFA No. 57).)

56. The Veendam stopped in Cienfuegos 17 times. (ECF No. 322-2, at 26 (RFA No. 84).)

57. The ports in Cienfuegos and Santiago de Cuba had facilities to clear passengers for customs, immigration, and medical screening. (ECF No. 322-2, at 34 (RFA No. 126); ECF No. 308-6, at 143:7-145:16.)

58. Cruise ships could and did embark and disembark passengers at Punta Frances in Isla de la Juventud, Cuba, and in Holguin, Cuba. (ECF Nos. 322-18, 322-19, at 68:17–69:22, 79:4-81:5; ECF Nos. 322-18, 322-19, at NCLH_23591-00005908-10; ECF No. 322-21, at 37:24–38:10; ECF No. 322-22, at 76:23-77:17.)

59. The decision by Carnival to use the Havana Port Terminal was a business decision. (ECF No. 308-5, at 6:19-7:13, 24:22-25:8, 26:18-25.)

60. From 2017 to 2019, Viking Cruises offered cruises that called in Cienfuegos and transported passengers to Havana by bus for a one- or two-day excursion. (ECF No. 322-15, at 27:16-29:23, 32:4-8, 35:14-36:14, 40:14-41:6, 44:24-46:6, 49:5-12, 50:18-53:1, 60:24-68:18, 80:15-81:5; ECF No. 322-15, at 48; ECF No. 322-15, at 53; ECF No. 322-15, at 67, 76; ECF No. 322-15, at 119, 131, 135.)

61. The Cuban Government authorized MSC to berth at the Havana Container Terminal. (ECF No. 322-14, at MSCCUSA0000077333; ECF No. 322-13, at MSCCUSA0000077419.)

62. Cruise ships were allowed to anchor in the Port of Havana Anchorage No. 1 ("La Tasajera") during the same time frame that Carnival's ships docked at the Havana Port Terminal. (ECF No. 322-3, at 4-5 (RFA Nos. 1-9), at 6-7 (RFA Nos. 19-20).)

63. The Port of Havana Anchorage no. 1 ("La Tasajera") could accommodate the Carnival ships Veendam, SBN Sojourn, Pacific Princess, all of which had the ability to anchor and tender passengers. (ECF No. 322-3, at 5 (RFA No. 10).)

64. The April 19, 2018, Supplement to the contract between Carnival and Aries designated "Anchoring" at the "Position" in Havana in the "Schedule of Calls and Berth Reservations" for the Veendam for the dates of November 11, 26, 2018 and December 5, 2018. (ECF No. 308-14, at 34:24-37:22; ECF No. 311-29, at HavanaDocks_0360875, 360952.)

65. All Carnival ships prior to December 2019 could anchor and "tender either with a shoreside tender or if a ship had tenders of its own." (ECF No. 308-2, at 55:17-57:8; ECF No. 308-7, at 163:13-16, 165:7-165:25; ECF No. 310-28, at HavanaDocks_0442735.)

66. OFAC does not administer the LIBERTAD ACT. (ECF No. 308-5, at 133:9-16; 310-2, at HavanaDocks_0345553-555.)

67. The LIBERTAD ACT does not provide a mechanism for the issuances of any licenses. (ECF No. 322-2, at 10 (RFA Nos. 19-21).)

68. Carnival did not have authorization from the U.S. Government pursuant to the LIBERTAD Act to acquire an interest in Airtours. (ECF No. 322-2, at 10 (RFA Nos. 19-20).)

69. Carnival did not have authorization from the U.S. Government pursuant to the LIBERTAD Act to acquire an interest in Costa. (ECF No. 322-2, at 10 (RFA Nos. 21-22).)

70. OFAC informed Carnival by letter dated July 2, 2015 that "compliance with the requirements of the CACR does not excuse a U.S. person from the need to comply with other provisions of 31 C.F.R. chapter V, and with other applicable provisions of law." (ECF No. 322-2, at14 (RFA No. 33).)

71. Carnival did not have a license or other authorization from the U.S. Government exempting it from liability for trafficking under the LIBERTAD Act for Airtours' ships use of the Havana Port Terminal. (ECF No. 308-13, at 41:9-42:14; ECF No. 308-9, at 56:4-7.)

72. Carnival did not obtain a license or any other authorization from the U.S. Government exempting it from liability for trafficking under the LIBERTAD ACT allowing Costa's ships to use, or for Costa to engage in commercial activities at (including managing the

operations), the Havana Port Terminal. (ECF No. 308-5, at 68:25-70:10; ECF No. 308-8, at 202:11-18, 220:7-10, 223:8-9, 15; ECF No. 308-13, at 93:19-94:7.)

73. Carnival did not obtain a license or any other authorization from the U.S. Government exempting it from liability for trafficking under the LIBERTAD ACT allowing it to consult the Cuban Government in connection with the enhancement of the Havana PortTerminal. (ECF No. 308-8, at 202:11-18; ECF No. 308-15, at 93:15-94:15; ECF No. 308-5, at 133:9-16; ECF No. 310-2, at HavanaDocks_0345553-555.)

74. Carnival obtained a license in 2018 from the Chamber of Commerce of the Republic of Cuba for Carnival to carry on business activities in Cuba related to tourism and leisure trips. (ECF No. 308-7, at 42:1-45:6; ECF 310-131, at HavanaDocks_0468290-294; ECF 310-14, at HavanaDocks_0438942-946.)

75. Arison traveled to Cuba in May 2016 aboard the Adonia that docked at the Havana PortTerminal and "spent an entire day touring Havana" where he visited a hair dressers museum ("an area that the tourists go"), traveled in an antique car, and went to the Tropicana nightclub. (ECF No. 308-9, at 18:11-21:10, 23:25-24:13; ECF No. 310-43, at 2.)

76. During Arison's day touring Havana he did not visit any human rights groups or religious organizations, nor meet with any dissidents. (ECF No. 308-9, at 21:7-19.)

77. Orlando Ashford, the President of Holland America, participated in the first cruise to Cuba aboard the Veendam that docked at the Havana PortTerminal, and his shore excursion exploration tours of Havana included: "touring the cigar factory, tasting the local rum and attending an evening performance at the famous Tropicana Cabaret." (ECF No. 308-14, at 102:10-104:22; ECF No. 311-39, at HavanaDocks_0477385-386.)

78. The shore excursions tours offered by Carnival to the passengers of the CCL ships, the Veendam, and the Adonia that docked at the Havana PortTerminal included "Tropicana Cabaret: Rhythms of the Night," "Parisien Cabaret at Hotel Nacional," and "El Canonazo: An Evening Out in Havana," tourist shows that did not comply with the People-to-People guidelines. (ECF No. 308-14, at 95:16-98:25, 99:22-102:4; ECF No. 311-38, at HavanaDocks_0476676, HavanaDocks_0476703; ECF No. 308-6, at 171:1-174:16; ECF No. 310-9, at HavanaDocks_0482142.)

79. Carnival and HAL decided on the content of the shore excursions offered on the Veendam cruises. (ECF No. 308-14, at 94:22-95:11.)

80. All cruises to Cuba on a Carnival ship originated and returned to a U.S. port. (ECF No. 311-4, at 2-3; ECF No. 322-23, at 28-33; ECF No. 322-24, at 27-32.)

81. Carnival entered into a "Memorandum of Understanding" with Groupo de Turismo GAVIOTA S.A., which is part of the Cuban Government, for tourist services in Cuba. (ECF No. 322-27, at 3-7.)

82. Carnival received a "premium" on sales of its cruises that included a Cuban port in the itinerary versus similar cruises that did not have a Cuban port. (ECF 308-4, at 56:1-25:23; ECF No. 308-9, at 197:14-199:15; ECF No. 308-11, at 93:17-95:9; 102:11-103:17.)

83. Other cruise lines, such as, Thomson, Fred Olsen, and Noble Caledonia offered cruises to Cuba that stopped in Cienfuegos, Santiago, and/or Holguin but did not include a stop in Havana. (ECF No. 322-28, at 8–11, 13; ECF No. 308-6, at 153:14-21; ECF No. 308-14, at 21:3-23:10, 28:17-29:11; ECF No. 311-27, at 5-6.)

Dated: September 20, 2021.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed under seal with the Clerk of the Court. I also certify that the foregoing document is being served this 20th day of September, 2021, on all counsel of record or pro se parties via electronic mail.

By: s/ Roberto Martínez_____
Roberto Martínez