Javier Garcia-Bengochea
v.
Carnival Corporation

Carnival Corporation's Motion For Judgment on the Pleadings

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Case No. 1:19-cv-21725-JLK
Hon. James Lawrence King

June 15, 2020

THE COMPLAINT SHOULD BE DISMISSED AT THIS TIME

(1) Bengochea did not inherit anything under Costa Rican law as reflected in the final order from the probate proceeding.

(2) If Bengochea acquired a claim, it occurred after 1996.

- "In the case of property confiscated before March 12, 1996, a United States national may not bring an action under this section on a claim to the confiscated property unless such national acquires ownership of the claim before March 12, 1996." 22 U.S.C. § 6082(a)(4)(B).

JUDGMENT ON THE PLEADINGS IS APPROPRIATE

- "Judgment on the pleadings is appropriate when material facts are not in dispute and judgment can be rendered by looking at the substance of the pleadings and any judicially noticed facts."
  - *Bankers Ins. Co. v. Florida Residential Prop. & Cas. Joint Underwriting Ass'n*, 137 F.3d 1293, 1295 (11th Cir. 1998)

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- Dr. Bengochea did not appear in the probate proceedings
- Dr. Bengochea's bequest was not included in the final distribution and order at the end of the probate case on July 9, 2002
- There is no other basis than inheritance from Desiderio Parreno on which plaintiff bases ownership of a claim to confiscated Cuban property that forms the basis of his Title III action

THERE ARE NO DISPUTED FACTS REGARDING PLAINTIFF'S BASIS FOR ASSERTING OWNERSHIP OF A CLAIM

- Plaintiff does not dispute, and indeed admits, all of these undisputed facts:

> "Dr. Garcia is a United States citizen who inherited a certification of the United States Government that Fidel Castro stole property from his American ancestor. The subject of his claim is commercial waterfront property in Santiago de Cuba (the "Subject Property"), that was confiscated from his family in 1960 by the Cuban Government. The claim comprises an 82.5% interest in the Subject Property, which **Dr. Garcia inherited by virtue of the death of his cousins, brothers Alberto and Desiderio Parreño.** In 1972, each brother possessed a claim to a 41.25% interest in the Subject Property. Because Alberto was a United States citizen, 32.5% of his claim was certified by the Foreign Claims Settlement Commission ("FCSC"). On his untimely death in 1972, and consistent with prevailing Treasury Department regulations, 2 Alberto effectively bequeathed his claim to Desiderio, giving Desiderio an 82.5% claim to the Subject Property. **When Desiderio died in 2000, he effectively bequeathed that claim to Dr. Garci**a, his cousin and godson."

Source: Opposition, D.E. 61, at 2-3 (emphasis added)

A PLAINTIFF MUST OWN A CLAIM TO SUE

- (A) Except as otherwise provided in this section, any person that, after the end of the 3-month period beginning on the effective date of this subchapter, traffics in property which was confiscated by the Cuban Government on or after January 1, 1959, shall be liable to any United States national ***who owns the claim to such property*** for money damages…

  - 22 U.S.C. § 6082.

- "The Helms-Burton Act also requires the plaintiff to show that he 'owns the claim' to the confiscated property."
  - Order Denying Motion to Dismiss, D.E. 41, at 9.

KEY DATES IN DESIDERIO PARRENO PROBATE PROCEEDINGS

- Aug. 27, 2000 – Death of Parreno
- Sept. 6, 2000 – Initial petition to open probate proceedings
- Oct. 4, 2000 – order appointing provisional executor and directing notification of heirs and legatees
- Jan. 31, 2001 – Interim order identifying heirs and legatees (including Bengochea)
- July 20, 2001 – Meeting of heirs and legatees to approve list of assets. Bengochea absent; not mentioned in draft distribution.
- Nov. 14, 2001 – Revised draft of distribution list submitted to court. Bengochea and Cuban assets not mentioned.
- Apr. 23, 2002 – Executor submitted formal request that distribution list be approved.
- July 9, 2002 – Order approving distribution list and directing distribution of assets. Bengochea and Cuban assets not mentioned.

BENGOCHEA DOES NOT APPEAR ON THE FINAL DISTRIBUTION

- Executor submitted the final distribution to the Probate Court on November 14, 2001 – Bengochea is not listed

NAME OF CREDITOR	IDENTIFICATION CARD	AMOUNT OWED IN COLONES	AM
LEGATEES:			
MARIA JULIA ANAYA MORENO	220-10474-488	2500000	
JUANA MARTINEZ MARTINEZ, ID CARD JUANA MARTINEZ CAMPOS	220-116865-6648	2500000	
CREDITORS			
LUIS TOUS PONS	8-030-274	1750312	
MARIA JULIA ANAYA MORENO	220-104074-4088	225625	
ARTURO BLANCO PAEZ, Esq.	1-632-637	225625	
HEIRS			
ASOCIACION ORATORIOS SALESIANA DON BOSCO	3-002-51528	3036068,3	
ASOCIACION EDUCACIONAL POPULAR MARIA AUXILIADORA DE COSTA RICA	3-002-45042	3036038,3	
ASOCIACION HOGAR CARLOS MARIA ULLO	3-002-111362-10	303038,3	

[signature]
SALVATORE CAFARELLI
EXECUTOR

Source: Exhibit 5 to Aguero Declaration, D.E. 56-5 at 19.

BENGOCHEA DOES NOT APPEAR ON THE FINAL DISTRIBUTION

- Court approved the distribution on July 9, 2002

[handwritten:] [illegible] /93

( ) EXECUTOR: ARTURO BLANCO PAEZ, ESQ., MAILBOX No. 85
LEGATEE MARÍA JULIA ANAYA, FAX: 223-1189

FILE 00-001613-185 ESTATE OF DESIDERIO PARREÑO VELAZQUEZ

SIXTH CIVIL COURT OF SAN JOSE. At three thirty in the afternoon of July ninth of two thousand two. The foregoing draft of the partial distribution list having been submitted by the executor on pages 65 to 69, and

CONSIDERING:

I. The draft of the distribution list is proposed by the executor of an estate, indicating who is to receive assets of the inheritance in order to distribute the estate. Accordingly, within the probate process, the judge may disapprove or approve it according to the provisions of Article 930 of the Code of Civil Procedure. Therefore, the aforesaid draft must be detailed in order to comply with the four fundamental points for the purpose of liquidating the assets of the deceased using the current process for distribution after paying all debts of the deceased, since the heirs will only receive the inheritance after said debts are paid. Otherwise, they cannot receive anything. (See Articles 522 and 535 of the Civil Code).

These four points are: a) who are the heirs of the deceased, b) what are the assets of the estate; c) what are the liabilities of the estate and d) what are the distributable net assets of the estate.

II. The distribution submitted by the executor in the case in question is in accordance with the provisions made by the deceased in his will.

III. Complying with all the requirements of the law, approval is given for the draft of the distribution list provided by the executor.

Source: Exhibit 6 to Aguero Declaration, D.E. 56-6.

UNDER THE CODE, THE FINAL DISTRIBUTION GOVERNS

- ARTICLE 561.- The **valid partition confers** to the co-heirs exclusive ownership of the assets distributed among them

- ARTICLE 932.- Recording in the notarial record book. Once final approval is given on the distribution, and in the case of assets subject to recording, the court shall order their recording in the notarial record book. … In the case of assets not subject to recording, **certification of the resolution approving the distribution shall serve as ownership title.**

Source: Aguero Reply Declaration ¶ 11 and Exh. 3, D.E. 67-3.

VARGAS'S OWN AUTHORITY CONFIRMS THAT LEGATEES MUST APPEAR TO ACCEPT OR DECLINE THE INHERITANCE

Dr. Francisco Luis Vargas Soto

Manual of

Costa Rican

Law of Succession

Paragraph 3. Acceptance and refusal of the inheritance

As a result of the summons issued by the court, the successors, whether heirs or legatees, are obligated to appear in the proceeding to state whether they wish to accept or refuse the inheritance.

Source: Aguero Reply Decl. Exh. 5, D.E. 67-5 at 3, 6.

UNDER THE CODE, EXPRESS ACCEPTANCE IS REQUIRED

- **Art. 528**: "For the acceptance of an inheritance to produce all valid legal effects, it must be express, requesting from the judge of the domicile of the probate a formal determination of the decedent's heirs."

- **Art. 529**: "The term for accepting the inheritance shall be thirty business days…

- **Art. 531**: "If during the term for accepting the inheritance no one appears to claim it by proving their capacity as heir, the inheritance will be deemed vacant and the corresponding municipality will be declared heir….

Source: Aguero Declaration Exh. 8, D.E. 56-8; Vargas Decl. at 9.

VARGAS'S OWN AUTHORITY CONFIRMS THAT THE FINAL DISTRIBUTION CONTROLS

has limited the scope of those norms ; thus the Second Civil Division, in Resolution number 319, issued at eight hours and twenty-five minutes on the nineteenth day of June, nineteen hundred and sixty-nine, stated that the right to come into full possession of the legacy must be recognized after the burdens on the estate proceedings and the decedent's debts have been paid off, and therefore the procedural opportunity for this situation to occur specifically must be set forth in the final settlement or distribution, a Resolution that is shared by this Court. Proceeding from this principle,

It should be noted, however, that the ten-year term to which we earlier referred is important when the property of the decedent should have been adjudicated inasmuch as it is only as of that moment that, in our milieu, possession of the property granted is to the heir, and the term should be reckoned as of then.

Source: Vargas Declaration Exh. 9, D.E. 60-9; Exh. 17, D.E. 60-17.

VARGAS RELIES ON A JANUARY 2001 *INTERIM ORDER* REFERRING TO BENGOCHEA AND WHICH DOES NOT INDICATE WHICH ASSETS WOULD BE GIVEN TO WHICH HEIRS

CASE FILE 00-001613-185 ESTATE OF DESIDERIO PERREÑO VELÁZQUEZ

SIXTH CIVIL COURT OF SAN JOSÉ. At thirteen hours and forty-two minutes on the thirty-first day of January, two thousand and one.

The publishing of the corresponding edict having been ascertained and there being no opposition whatsoever, the following are declared legatees of the *de cujus* DESIDERIO PARREÑO VELÁSQUEZ: LUIS TOUS PONS, MARIA JULIA ARAYA MORENO, JUANA MARTÍNEZ MARTÍNEZ, JAVIER GARCÍA-BENGOCHEA BOLÍVAR; and as sole and residuary legatees, ASOCIACIÓN EDUCACIONAL MARÍA AUXILIADORA DE COSTA RICA, ASILO CARLOS MARÍA ULLOA and ASOCIACIÓN ORATORIA SALESIANA DON BOSCO, without prejudice of third parties with better or equal right.

[Illegible signature]

Freddy Quesada Valerio

Judge

Source: Exhibit 22 to Vargas Declaration, D.E. 60-22.

IF PROBATE WERE NOT REQUIRED, WHY DID VARGAS HIMSELF REPRESENT A CLIENT IN THE PROBATE PROCEEDINGS?

MEETING OF HEIRS

At the Sixth Civil Court of San José at 1:30 p.m. on July 20, 2001, which is the time and date indicated in the case record for the meeting to be held, the following people are present: Margarita Trejos Zamora ID 4-708-222 as representative of the heir Asociación Educacional María Auxiliadora de Costa Rica, Elsa Julia Méndez Villalobos ID 7-031-159 as representative of the Carlos María Ulloa Asylum, Benedicto Zumbado Zumbado ID 4-0550-28 as representative of the Asociación Oratorios Salesianos Don Bosco, Luis Antonio Tous Pons ID 8-030-274, María Julia Anaya Moreno residence card 0-104074-4088 Juana Martínez Enríquez passport number 8721, Arturo Blanco Páez as principal attorney of the estate and Andrés Vargas Siverio as attorney for Mr. Tous Pons. The inventory is put to the vote and approved unanimously, as is the appointment of the Executor, and accordingly Mr. Salvatore Cafarelli will continue in his position. Finally, the

- Indeed, every other legatee and heir other than Bengochea participated in the probating proceeding

Source: Aguero Declaration Exh. 7, D.E. 56-7 at 80.

IF EXPRESS ACCEPTANCE IS NOT REQUIRED, WHY DID VARGAS'S CLIENT EXPRESSLY ACCEPT?

To the Judge of the Sixth Civil Court

First Judicial Circuit of San José

I, the undersigned, **LUIS TOUS PONS**, of legal age, married, a businessman and resident of San Rafael de Escazù, National Identification Card Number 8-030-274, respectfully appear before the authorities to state that **I accept the legacy** made to me by the decedent, pursuant to the provisions of Articles 527 and 529 of the Civil Code.

[signature]

Luis Tous Pons

Authenticated by: [signature]

SPECIAL POWER OF ATTORNEY

I, the undersigned **Luis Tous Pons**, identified above, do confer a SPECIAL POWER OF ATTORNEY, as broad and sufficient as may be required by law, to attorneys **Andre Jesús Vargas Siverio,** who is of legal age, married, an attorney, holder of National Identification Card Number 1-543-240, a resident of Moravia, and **Xiomara Solís Murillo**, who is of legal age, married, an attorney and resident of Alajuela, holder of National Identification Card Number 1-846-611, to act jointly or separately, and in my capacity as legatee and certifying creditor in this probate proceeding, to represent me in all its proceedings, procedures and events, conferring to them for such purpose all the authority established by law for this type of mandate, as well as the authority to delegate this power of attorney in whole or in part, to revoke substitutions and make others, always reserving for themselves the exercise thereof. San José, April 23, 2001.

Source: Aguero Reply Declaration Exh. 2, D.E. 67-2.

PLAINTIFF'S SUIT SHOULD BE DISMISSED BECAUSE HE ACQUIRED HIS CLAIM FROM A FOREIGN NATIONAL AFTER 1996

- Helms-Burton is clear that "In the case of property confiscated before March 12, 1996, a United States national may not bring an action under this section on a claim to the confiscated property unless such national acquires ownership of the claim before March 12, 1996."
  - 22 U.S.C. § 6082(a)(4)(B).

THE NEXT SUBSECTION IN HELMS BURTON *DOES* CARVE OUT ACQUISITION BY INHERITANCE

(4) Applicability

…

(B) In the case of property confiscated before March 12, 1996, a United States national may not bring an action under this section on a claim to the confiscated property ***unless such national acquires ownership of the claim*** before March 12, 1996.

(C) In the case of property confiscated on or after March 12, 1996, a United States national who, after the property is confiscated, ***acquires ownership of a claim to the property by assignment for value***, may not bring an action on the claim under this section.

22 U.S.C. § 6082(a)(4) (emphasis added)

IF PLAINTIFF IS RIGHT THAT ACQUIRES DOES NOT INCLUDE INHERITENCE THEN PLAINTIFF IS STILL BARRED FROM BRINGING SUIT

- Helms-Burton requires that a Plaintiffs "acquire ownership" ***before*** March 12, 1996
  - "In the case of property confiscated before March 12, 1996, a United States national may not bring an action under this section on a claim to the confiscated property unless such national acquires ownership of the claim before March 12, 1996."

DESIDERIO PARRENO DIED AUGUST 27, 2000 – THUS NO U.S. NATIONAL OWNED THE CLAIM HERE ON MARCH 12, 1996

COPY FOR THE INTERESTED PARTY

REPUBLIC OF COSTA RICA
DEATH CERTIFICATE

No. 0041059

DECEASED'S FULL NAME

First name	Paternal Surname	Maternal Surname
Desiderio	*Parreño*	*Velasquez*

KNOWN AS

First name	Paternal Surname	Maternal Surname

NATIONALITY: *Costa Rican*
ID card: *8062150*
CLINICAL FILE: *8062150*

MALE ☒ FEMALE ☐

AGE	84	YEARS
IF LESS THAN 1 YEAR		MONTHS
IF LESS THAN 1 MONTH		DAYS
IF LESS THAN 1 DAY		HOURS
IF LESS THAN 1 HOUR		MINUTES

Name and code of certifying physician [signature]

HE DIED IN
Cima San Jose Hospital

9) PLACE OF DEATH
San Jose
Escazú *San Rafael*

Elsewhere (specify)

10) DATE OF DEATH	Time	Day	Month	Year
	10:50	*27*	*August*	*00*

11) OCCUPATION
Pensioner
Specify agricultural laborer, carpenter, etc

Source: Aguero Declaration Ex. 1, D.E. 56-1

ALTOGETHER, THE TEXTUAL EVIDENCE THAT "ACQUIRES" INCLUDES INHERITENCE IS OVERWHELMING

Carnival's Evidence that "acquires" includes inheritance	Plaintiff's Evidence that it does not
• Cases: *United States v. Laisure*, 460 F.2d 709, 712 & n.3 (5th Cir. 1972); *In re Hoerr*, 2004 WL 2926156, at *4 (Bankr. C.D. Ill. Dec. 13, 2004) *Shriners Hosps. for Crippled Children v. Zrillic*, 563 So. 2d 64, 67 (Fla. 1990); *Momberger v. Momberger*, 97 A.D.3d 945, 946 (NY App. Div. 2012); *Dever v. Dever*, 1999 WL 211772, at *3 (Ohio Ct. App. Apr. 12, 1999); *McGhee v. Banks*, 154 S.E.2d 37, 39 (Ga. Ct. App. 1967). • Dictionaries: Acquire, MERRIAM-WEBSTER.COM, http://merriam-webster.com/dictionary/acquire (last visited Sept. 19, 2018) (""to get as one's own[,]" or "to come into possession or control of often by unspecified means."); Descent, Black's Law Dictionary (11th ed. 2019) (defining "descent" as "[t]he acquisition of real property by law, as by inheritance…" (emphasis added)); Title, id. (describing multiple types of titles that may be "acquired" by inheritance); Succession, id. (defining succession as "[t]he acquisition of rights or property by inheritance under the laws of descent and distribution"). • Common law: Bequest, devise, and descent, were "all common law modes of acquisition[.]" Peck v. Vandenberg, 30 Cal. 11, 19 (1866). • Statutory Context: when Congress wants to exclude certain types of acquisitions from the scope of the broad term "acquire" it knows how to do it. Congress has prohibited "[o]fficers and employees of the Patent and Trademark Office" from "acquiring, directly or indirectly, except by inheritance or bequest, any patent[.]" 35 U.S.C. § 4. Likewise, "[e]mployees of the Plant Variety Protection Office" cannot "acquire directly or indirectly, except by inheritance or bequest, any right or interest in any matters before that office." 7 U.S.C. § 2324. • DOJ View**:** "[T]he U.S. national bringing the claim must have owned the claim before March 12, 1996." 61 FR 24955-01.	**NO EVIDENCE**

ACQUIRES INCLUDES INHERITENCE: THE BLACK'S LAW DICTIONARY IN EFFECT WHEN HELMS-BURTON WAS PASSED IS CONTRARY TO PLAINTIFF'S VIEW

Acquire. To gain by any means, usually by one's own exertions; to get as one's own; to obtain by search, endeavor, investment, practice, or purchase; receive or gain in whatever manner; come to have. In law of contracts and of descents, to become owner of property; to make property one's own. To gain ownership of. Commissioner of Insurance v. Broad Street Mut. Casualty Ins. Co., 312 Mass. 261, 44 N.E.2d 683, 684. The act of getting or obtaining something which may be already in existence, or may be brought into existence through means employed to acquire it. Ronnow v. City of Las Vegas, 57 Nev. 332, 65 P.2d 133, 140. Sometimes used in the sense of "procure." It does not necessarily mean that title has passed. Includes taking by devise. U. S. v. Merriam, 263 U.S. 179, 44 S.Ct. 69, 70, 68 L.Ed. 240. *See also* Accession; Acquisition; Purchase.

Black's Law Dictionary (6th Ed. 1990)

JUDGE SCOLA'S ORDER HOLDS INHERITANCE MUST BE BEFORE 1996 T0 STATE A CLAIM

Gonzalez has still failed to sufficiently allege in his Amended Complaint that he has an actionable ownership interest in the property.[1] Gonzalez does not allege that he inherited the property before 1996 (and instead alleges that he inherited it sometime after November 2016), and therefore he fails to state a claim.

Source: *Gonzalez v. Amazon.com, Inc. et al.*, No. 19-23988-Civ-Scola. (S.D. Fla. 2020)

INDEED, EVEN PLAINTIFF USES THE WORD ACQUIRES TO MEAN INHERITENCE BECAUSE THAT IS NORMAL ENGLISH

owns a claim to the Santiago Docks." (D.E. 14 at 12.) The fact that Plaintiff's ownership interest in the claim may be derivative based upon a present, future or contingent right is best left to the discovery process and later stages of litigation.[7] For example, Plaintiff's acquisition of his ownership interest in the claim may be demonstrated through discovery as being derivative from an inheritance from a United States national, or by way of distribution of an "asset" following dissolution of a corporation that owned the property at the time it was confiscated.

Source: Plaintiff's Opposition to Carnival's Motion to Dismiss, D.E. 24 at 24

LEGISLATIVE HISTORY CONFIRMS THAT THE ACQUISITIONS BAR MEANS WHAT IT SAYS

- Congress was concerned that Helms-Burton would incentivize transfers of claims, and therefore, barred new acquisitions "in part, to eliminate any incentive that might otherwise exist to transfer claims to confiscated property to U.S. nationals in order to take advantage of the remedy created by this section."
  - 142 Cong. Rec. H1645-02, H1660, 1996 WL 90487.

- **<u>That is exactly what happened here</u>**. Desiderio, a foreign national, tried to transfer his claims into the United States, so that his cousin could take advantage of Helms-Burton.
  - "It is not the committee's intent that the right of action be available to persons or entities that would relocate to the United States for the purpose of using this remedy." H.R. Rep. 104-468 (March 1, 1996) at 59, 142 Cong. Rec. H1645-02 at H1660.

DOJ's Interpretation is Entitled to *Chevron* deference

- The Department of Justice, the entity tasked with interpreting Helms Burton, states : "[T]he U.S. national bringing the claim ***must have owned the claim before March 12, 1996***."

  –61 FR 24955-01 (emphasis added).

GIVING THE ACQUISITIONS BAR ITS FAIR READING DOES NOT MAKE HELMS-BURTON A DEAD LETTER

- FCSA certification has value even where there is no Title III suit.
- "We have concluded that there are only about 700 claims, principally commercial claims interests, that would therefore come under the act."
  - Senator Coverdell, manager of bill, 42 Cong Rec. S1479-04
- Individuals who acquired their claims by inheritance or otherwise prior to 1996 can bring suit.
- Moreover, even if a plain reading here did bar the majority of claims, Congress was aware of the suspension and could have fixed it.

THE ANTI-ASSIGNMENT ACT DOES NOT SPEAK OF "ACQUUIRE"

- The Anti-Assignment Act prohibits, except in certain limited circumstances, the "***transfer or assignment*** of any part of a claim against the United States Government or of an interest in the claim." 31 U.S.C. § 3727.
- If Congress wanted to invoke the Courts' interpretation of the Anti-Assignment Act, it would have used the Anti-Assignment Act's language.
  - *E.g.*, *Gross v. FBL Fin. Services, Inc.*, 557 U.S. 167, 174 (2009) (declining to cross apply interpretation because texts were different).
- The Anti-Assignment Act cases also rely on legislative history that is inapplicable here.

PLAINTIFF IS WRONG THAT THE ACQUISITIONS BAR APPLIES ONLY TO UNCERTIFIED CLAIMS

- Plaintiff points to no evidence that the acquisitions bar does not apply to certified claims.
  - Indeed, Congress itself did not make that distinction when it described the clause in the legislative history.
- Helms-Burton uses the term "claim" to refer to both certified and uncertified claims:
- For example, Helms-Burton's cause of action, refers only to the unadorned term "claim," providing: "any person that . . . traffics in property which was confiscated by the Cuban Government . . .shall be liable to any United States national who owns the claim to such property for money damages." 22 U.S.C. § 6082(a)(1)(A).

Carnival's Motion Is Procedurally Proper

THE DOCUMENTS ARE JUDICIALLY NOTICEABLE

- "The court may judicially notice a fact that is not subject to reasonable dispute because it: (1) is generally known within the trial court's territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned."
  - Fed. R. Evid. 201(b).

- "Courts may take judicial notice of **publicly filed documents**, such as those in state court litigation, at the Rule 12(b)(6) stage."
  - *U.S. ex rel. Osheroff v. Humana Inc.*, 776 F.3d 805, 812 (11th Cir. 2015) (emphasis added).

THE DOCUMENTS ARE "CENTRAL" TO THE ALLEGATIONS AND UNDISPUTED

- "[O]n a motion for judgment on the pleadings, documents that are not a part of the pleadings may be considered, as long as they are central to the claim at issue and their authenticity is undisputed."
  - *Perez v. Wells Fargo N.A.*, 774 F.3d 1329, 340 n.12 (11th Cir. 2014).

- Ownership of Plaintiff's claim to confiscated property is "central" to his Helms-Burton claim.
  - D.E. 41, at 9 ("The Helms-Burton Act also requires the plaintiff to show that he 'owns the claim' to the confiscated property.").

EXPERT TESTIMONY ON COSTA RICAN LAW MAY BE CONSIDERED

- "In determining foreign law, the court may consider any relevant material or source, including testimony, whether or not submitted by a party or admissible under the Federal Rules of Evidence. The court's determination must be treated as a ruling on a question of law."
  - Fed. R. Civ. P. 44.1.

- The Eleventh Circuit has noted that it is proper to resolve a question of foreign law "at the pleadings stage."
  - *Baloco ex rel. Tapia v. Drummond Co., Inc.*, 640 F.3d 1338, 1349 n.14 (11th Cir. 2011).