UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO.: 19-cv-21724-BLOOM/McAliley

HAVANA DOCKS CORPORATION,

Plaintiff,

vs.

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

Defendant.
_____/

CARNIVAL CORPORATION'S MOTION FOR RECONSIDERATION

This motion seeks reconsideration of the denial of Carnival's motion to dismiss, D.E. 17, based on this Court's recognition in its orders in *Havana Docks Corp. v. MSC Cruises SA CO, et al.*, No. 19-cv-23588-BLOOM-Louis (S.D. Fla. Jan. 3, 2020), D.E. 40 ("MSC Order") and *Havana Docks Corp v. Norwegian Cruise Line Holdings, Ltd.*, No. 190-cv-23591-BLOOM-Louis (S.D. Fla. Jan. 7, 2020), D.E. 42 ("Norwegian Order"), that its order on Carnival's motion to dismiss warranted reconsideration.

This case is brought by the same Plaintiff and concerns the same property as in the MSC and Norwegian cases. In all three cases, Plaintiff has brought suit under the Helms-Burton Act, which states "that 'any person . . . that traffics in property that was confiscated by the Cuban Government . . . shall be liable to any United States national who owns the claim to *such* property.'" MSC Order at 5 (quoting 22 U.S.C. § 6082(A)); *accord* Norwegian Order at 5. Here, the Plaintiff alleges that beginning in 2016, Carnival trafficked in property it holds a claim to by conducting cruises to the piers in Havana harbor. D.E. 1 ¶¶ 12-14. But as Plaintiff admits, the property it holds a claim to is a time-limited concession, which expired in 2004. D.E. 1 ¶¶ 6, 11, & Ex. A. Indeed, Plaintiff was required to return the piers to the Cuban government in 2004. D.E. 1-1 at 7, 9. In its motion to dismiss, Carnival argued that because Plaintiff's claim related to a property interest that expired on its own terms in 2004, Carnival could not have "trafficked" in 2016. D.E. 17 at 11-15.

Although the Court originally rejected Carnival's interpretation, D.E. 47, in the MSC and Norwegian Orders, in cases *brought by the same Plaintiff and concerning the same subject property*, the Court *explicitly reconsidered* its position and now has accepted Carnival's position. MSC Order at 4; *see also* Norwegian Order at 4.

The MSC and Norwegian Orders are grounds for reconsideration. "[T]here are three major grounds which justify reconsideration: (1) an intervening change in controlling law; (2) the availability of new evidence; and (3) the need to correct clear error or prevent manifest injustice." *Burger King Corp. v. Ashland Equities, Inc.*, 181 F. Supp. 2d 1366, 1369 (S.D. Fla. 2002). Here, reconsideration is appropriate in light of the MSC and Norwegian Orders, *e.g.*, *Craddock v. M/Y The Golden Rule*, 110 F. Supp. 3d 1267, 1272 (S.D. Fla. 2015) (granting reconsideration after "further review, and in the interest of justice"); c*f. Klay v. All Defendants*, 389 F.3d 1191, 1197 (11th Cir. 2004) (noting "important goals" of judicial doctrine including "the promotion of consistency in rulings between courts").

For these reasons, Carnival respectfully requests that the Court reconsider its August 28, 2019 Order denying Carnival's motion to dismiss, D.E. 47, and dismiss Plaintiff's claim with prejudice for the reasons set forth in its orders in the MSC and Norwegian cases.

Dated: January 7, 2020

Respectfully submitted,

By: *s/ Stuart H. Singer*

Stuart H. Singer
(Florida Bar No. 377325)
Evan Ezray
(Florida Bar No. 1008228)
Johnathan Lott
(Florida Bar No. 0116423)
BOIES SCHILLER FLEXNER LLP
401 East Las Olas Boulevard, Suite 1200
Fort Lauderdale, Florida 33301
Telephone: (954) 356-0011
ssinger@bsfllp.com
eezray@bsfllp.com
jlott@bsfllp.com

Pedro A. Freyre
AKERMAN LLP
(Florida Bar No. 192140)
98 SE 7th St., Suite 1100
Miami, Florida 33131
Telephone: (305) 374-5600
Pedro.freyre@akerman.com

George J. Fowler, III
(*Pro Hac Vice*)
Luis Llamas
(Florida Bar No. 89822)
JONES WALKER LLP
201 St. Charles Ave.
New Orleans, LA 70170
Telephone: (504) 582-8752
gfowler@joneswalker.com
llamas@joneswalker.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on all counsel of record via the court's CM/ECF System on January 7, 2020.

By: */s/ Stuart H. Singer*