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Judge Reels Cruise Lines Back Into Suit Over Cuban Dock

By Joyce Hanson

Law360 (April 20, 2020, 7:51 PM EDT) -- Three more cruise lines have been tugged back into federal court cases by a former Cuban port owner accusing them of trafficking in confiscated property at Havana dock facilities nationalized by the Castro regime, with a Florida judge saying she made factual and legal errors that had previously denied the port owner's rights.

U.S. District Judge Beth Bloom on Monday allowed Havana Docks Corp. to file an amended complaint against Carnival Corp., after she denied on Friday Royal Caribbean Cruise Ltd.'s motion for judgment and vacated her prior dismissal of the port owner's claims against MSC Cruises SA. With those three orders, the judge effectively reversed her previous holding that the ex-owner's property rights expired in 2004.

The judge said she agreed with Havana Docks that she had too narrowly construed the liability created by Title III of the 1996 Helms-Burton Act — also known as the Cuban Liberty and Democratic Solidarity Act — and also rejected cruise lines' arguments that an amended complaint would be futile, saying the port owner can sufficiently argue a claim in light of her new analysis.

"Havana Docks argues that the amended complaint will cure the deficiencies discussed in the motion to dismiss orders and will sufficiently allege facts that further support a claim under Title III," the judge wrote in her order denying Royal Caribbean's motion.

Judge Bloom said Havana Docks in its amended complaint will discuss an Eleventh Circuit opinion on time limitations related to property interests that remain after confiscation, and will argue that its concession agreement never expired because it included a 99-year leasehold interest that was cut short by 44 years due to the confiscation.

The judge's two orders followed **her reversal Wednesday** of her earlier decision to dismiss Havana Docks' claims against Norwegian Cruise Line Holdings Ltd. in the port owner's related suit that similarly claims the cruise company violated the Helms-Burton Act by using the port property confiscated by the Castro regime.

Havana Docks brought its four cases against the cruise lines after the Trump administration announced last April that it was lifting a stay on implementation of the Helms-Burton Act, which lets American companies and individuals sue companies that trade in wrongfully confiscated property in Cuba to which they have a claim.

In its complaints against Carnival, MSC, Norwegian and Royal Caribbean, Havana Docks said it owned the commercial waterfront property in the Port of Havana, now known as the Havana Cruise Port Terminal, from 1917 until it was confiscated by the communist government of Fidel Castro on Oct. 24, 1960. The Cuban government retains possession of the property and never paid any compensation for it, according to the complaints.

Judge Bloom noted in her Norwegian, MSC and Royal Caribbean orders favoring Havana Docks that she held a March 9 consolidated hearing on various motions, which were attended by the port owner's counsel along with lawyers representing the three cruise lines. During the hearing, the judge said, Havana Docks made a convincing argument that the court should reconsider its previous dismissals with prejudice based on errors of fact and law.

The judge's reconsideration after the hearing resulted in her **denying** Royal Caribbean's Jan. 10 motion for judgment on the pleadings. It also led her to **reverse** her Jan. 3 order dismissing the MSC case for failure to state a claim.

On Monday, Havana Docks filed its first amended complaint against Carnival, MSC and Royal Caribbean after filing the new complaint against Norwegian on Thursday.

Counsel for Havana Docks and MSC declined to comment Monday. Counsel for Royal Caribbean did not immediately respond to requests for comment. Counsel for Carnival could not be reached for comment.

Havana Docks is represented by Roberto Martínez, Stephanie A. Casey, Zachary A. Lipshultz and Aziza F. Elayan-Martinez of Colson Hicks Eidson PA, and Rodney S. Margol of Margol & Margol PA.

Royal Caribbean is represented by Scott D. Ponce and Sanford L. Bohrer of Holland & Knight LLP.

MSC is represented by J. Douglas Baldrige, Andrew T. Hernacki and Justin B. Nemeroff of Venable LLP.

Norwegian is represented by Richard C. Lorenzo and Allen P. Pegg of Hogan Lovells.

Carnival is represented by Stuart H. Singer, Evan Ezray and Johnathan Lott of Boies Schiller Flexner LLP, Pedro A. Freyre of Akerman LLP, and George J. Fowler III of Jones Walker LLP.

The cases are Havana Docks Corp. v. Carnival Corp., case number 1:19-cv-21724, Havana Docks Corp. v. MSC Cruises SA Co., case number 1:19-cv-23588, Havana Docks Corp. v. Royal Caribbean Cruises Ltd., case number 1:19-cv-23590, and Havana Docks Corp. v. Norwegian Cruise Line Holdings Ltd., case number 1:19-cv-23591, in the U.S. District Court for the Southern District of Florida.

--Additional reporting by Carolina Bolado and Nathan Hale. Editing by Adam LoBelia.