UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

CASE NO.:_____

ODETTE BLANCO DE FERNANDEZ
née BLANCO ROSELL,

Plaintiff,

v.

CROWLEY MARITIME CORPORATION,

Defendant.
_____ /

COMPLAINT

Odette Blanco De Fernandez, *née* Blanco Rosell ("Plaintiff"), by and through counsel, as and for her Complaint against Crowley Maritime Corporation ("Crowley" or "Defendant"), hereby alleges:

PRELIMINARY STATEMENT

1. Plaintiff brings this action to recover damages and interest under the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, codified at 22 U.S.C. § 6021, et seq. (the "Helms-Burton Act" or "Act") against Crowley for trafficking in property which was confiscated by the Cuban Government on or after January 1, 1959 and as to which Plaintiff owns claims.

2. On September 29, 1960, the Cuban Government published the announcement of the confiscation without compensation of the following property of the Plaintiff and her siblings:

> One: To confiscate, on behalf of the Cuban State, all of the property and rights, whatever their nature, forming the assets of the persons listed in the first Whereas, with the exception of property and rights that are strictly of a personal nature.
>
> Two: To confiscate, on behalf of the Cuban State, all shares or stock certificates representing capital of the entities listed in the [other] Whereas of this resolution, along with all of their properties, rights, and shares that are issued and in circulation.
>
> Three: To order the transfer of the properties, rights, and shares forming the assets of the legal entities listed in the preceding provision to the National Institute for Agrarian Reform (I.N.R.A.).
>
> Four: This resolution to be published in the OFFICIAL GAZETTE of the Republic for purposes of notification and fulfillment of what is provided for by Law No. 715 of 1960.

Resolution No. 436 published in the Cuban Official Gazette dated September 29, 1960 at 23405, 23406 (English translation).

3. The "persons listed in the first Whereas" in Resolution 436 above is a reference toPlaintiff Odette Blanco Rosell [now Odette Blanco de Fernandez] and her brothers Alfredo, Enrique, Florentino, and Byron (collectively, the "Blanco Rosell Siblings"), who had been the subject of "investigations" carried out by the Cuban Government. See id. at 23405 (first Whereas clause) ("Whereas: Having considered cases number 3-2-3143. 3-2-8990 and 3-2-9832, regarding the

investigations carried out on the following persons. Alfredo, Enrique. Florentino, Byron and Odette Blanco Rosell.").

4. The Blanco Rosell Siblings' property confiscated by the Cuban Government included all of their "property and rights, whatever their nature," including but not limited to:

> (a) their wholly owned company, Maritima Mariel SA, and the 70-Year Concession held by Maritima Mariel SA, to develop docks, warehouses and port facilities on Mariel Bay, a deep water harbor located on the north coast of Cuba; and
>
> (b) their wholly owned companies, Central San Ramón and Compañia Azucarera Mariel S.A., including those companies' extensive land holdings (approximately 11,000 acres) on the southeast, south and west sides of Mariel Bay, which included a number of improvements such as roads, railways, buildings, and utilities

See Resolution No. 436(1) published in the Cuban Official Gazette dated September 29, 1960 at 23406 (English translation). ("Confiscated Property").

5. The Blanco Rosell Siblings were not U.S. citizens when the Cuban Government confiscated their Confiscated Property in 1960. They fled Cuba after the confiscation and became U.S. citizens before March 12, 1996, the date the Helms-Burton Act was signed into law. Today, only Plaintiff, age 93, is alive.

6. In 1996, the U.S. Congress passed the Helms-Burton Act, and President Bill Clinton signed the Act into law on March 12, 1996. Title III of the Act, which took effect in August 1996, imposes liability against persons who

"traffic" in property confiscated by the Cuban Government on or after January 1, 1959, the claims to which are owned by U.S. nationals, including persons who became U.S. nationals before March 12, 1996.

7. Although Title III's creation of liability as to those engaged in trafficking has remained in force since August 1996, the ability of any potential plaintiff to bring a private right of action for Title III violations had been suspended by the President every six months (pursuant to authority granted in the Act) until May 2019, when President Donald Trump allowed the suspension of Title III's private right of action to lapse, thereby allowing such actions to proceed.

PARTIES

8. Plaintiff Odette Blanco de Fernandez, *née* Blanco Rosell, is a United States national within the meaning of 22 U.S.C. § 6023(15)(A). She has owned claims to the Confiscated Property since it was confiscated in 1960. She resides in Miami, Florida.

9. Defendant Crowley is a diversified marine transportation and logistics company, incorporated under the laws of the State of Delaware, with its principal place of business at 9487 Regency Square Blvd., Jacksonville, Florida 32225.

JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1331 because Plaintiff's claims arise under the laws of the United States, specifically Title III of the Helms-Burton Act, 22 U.S.C. §§ 6081–85.

11. The amount in controversy in this action exceeds $50,000, exclusive of interest, treble damages, court costs, and reasonable attorneys' fees. 22 U.S.C. § 6082(b).

12. Defendant Crowley is subject to the personal jurisdiction of this Court because its principal place of business is located in this judicial district.

13. Defendant Crowley is subject to the personal jurisdiction of this Court pursuant to Federal Rule of Civil Procedure 4(k)(1)(A) and pursuant to Fla. Stat. § 48.193 including subsections § 48.193 (1)(a)1, 2 and 6 and § 48.193(2) thereof, because Crowley committed and continues to commit acts of trafficking as defined in the Helms Burton Act, 22 U.S.C. § 6023(13) within the state of Florida and this judicial district and thus is subject to personal jurisdiction in the state courts of Florida and in this Court.

14. Venue is proper in this District under 28 U.S.C. § 1391(b)(1) because Defendant Crowley resides in this District and under 28 U.S.C. §§1391(b)(2) and 1391(d), because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this District.

15. Contemporaneous with this filing, Plaintiff has paid the special fee for filing an action under Title III of the Helms-Burton Act, 22 U.S.C. § 6082(i), which is $6,548 pursuant to the fee schedule adopted by the Judicial Conference in September 2018.

I. THE HELMS-BURTON ACT

A. Background

16. The Helms-Burton Act, signed into law on March 12, 1996, had several goals, including to "protect United States nationals against confiscatory takings and the wrongful trafficking in property confiscated by the Castro regime," 22 U.S.C. § 6022(6). Further, Congress determined that "'trafficking' in confiscated property provides badly needed financial benefit, including hard currency, oil, and productive investment and expertise to the … Cuban Government and thus undermines the foreign policy of the United States," which foreign policy includes "protect[ing] claims of United States nationals who had property wrongfully confiscated by the Cuban Government." 22 U.S.C. § 6081(6).

17. Congress found that international law "lacks fully effective remedies" for the "unjust enrichment from the use of wrongfully confiscated property by governments and private entities at the expense of the rightful owners of the property." 22 U.S.C. § 6081(8).

18. Congress thus decided that "the victims of these confiscations should be endowed with a judicial remedy in the courts of the United States that would deny traffickers any profits from economically exploiting Castro's wrongful seizures." 22 U.S.C. § 6081(11). The result was Title III of the Helms-Burton Act – "Protection of Property Rights of United States Nationals" – which imposes liability on persons trafficking in property confiscated from a U.S. national by the Cuban Government on or after January 1, 1959, and which authorizes a private right of action for damages against such traffickers. *See* 22 U.S.C. § 6082.

19. The Helms-Burton Act authorizes the President (or his delegate, the Secretary of State) to suspend for periods of up to six months at a time (1) the Title III private right of action, 22 U.S.C. § 6085(c); and/or (2) the effective date of Title III of August 1, 1996, 22 U.S.C. § 6085(b).

20. Although President Clinton suspended the private right of action under Title III on July 16, 1996 for six months, the August 1, 1996 effective date was not suspended. Title III of the Act came into effect on August 1, 1996. Starting on that date, traffickers of confiscated property were liable to U.S. nationals with claims to that property but could not be sued while the private right of action remained suspended.

21. President Clinton and subsequent administrations renewed the suspension of the Title III private right of action, typically for six months at a time,

by decision of the President or Secretary of State. There was never any guarantee future presidents would continue the suspensions, and the operative provisions of the Act have remained in effect continuously since 1996.

22. On April 17, 2019, Secretary of State Pompeo announced that the Trump Administration would no longer suspend the right to bring an action under Title III, effective May 2, 2019.

B. The Helms-Burton Act's Private Right of Action

23. Title III of the Helms-Burton Act provides the following private right of action:

> (1) Liability for trafficking. — (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 title, 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(a)(1).

24. The Act defines "person" as "any person or entity, including any agency or instrumentality of a foreign state." 22 U.S.C. § 6023(11).

25. The Act defines "United States national" to include "any United States citizen[.]" 22 U.S.C. § 6023(15).

26. A person "traffics" in confiscated property if that person "knowingly and intentionally":

> (i) sells, transfers, distributes, dispenses, brokers, manages, or otherwise disposes of confiscated property, or purchases, leases, receives, possesses, obtains control of, manages, uses, or otherwise acquires or holds an interest in confiscated property,
>
> (ii) engages in a commercial activity using or otherwise benefiting from confiscated property, or
>
> (iii) causes, directs, participates in, or profits from, trafficking (as described in clause (i) or (ii)) by another person, or otherwise engages in trafficking (as described in clause (i) or (ii)) through another person, without the authorization of any United States national who holds a claim to the property.
>
> without the authorization of any United States national who holds a claim to the property

22 U.S.C. § 6023(13).

27. The Act defines "property" as "any property (including patents, copyrights, trademarks, and any other form of intellectual property), whether real, personal, or mixed, and any present, future, or contingent right, security, or other interest therein, including any leasehold interest." 22 U.S.C. § 6023(12).

28. The Act defines "confiscated" in relevant part as:

> [T]he nationalization, expropriation, or other seizure by the Cuban Government of ownership or control of property, on or after January 1, 1959 —
>
> (i) without the property having been returned or adequate and effective compensation provided; or
>
> (ii) without the claim to the property having been settled pursuant to an international claims settlement agreement or other mutually accepted settlement procedure.

22 U.S.C. § 6023(4)(A).

29. The Act defines "confiscated" in relevant part as "the nationalization, expropriation, or other seizure by the Cuban Government of ownership or control of property, on or after January 1, 1959 — (i) without the property having been returned or adequate and effective compensation provided; or (ii) without the claim to the property having been settled pursuant to an international claims settlement agreement or other mutually accepted settlement procedure." 22 U.S.C. § 6023(4)(A).

30. The term "knowingly" under the Act means "with knowledge or having reason to know." 22 U.S.C. § 6023(9).

31. The Helms-Burton Act adopts the definition of "commercial activity" under 28 U.S.C. § 1603(d), *see* 22 U.S.C. § 6023(3), which defines the term as "either a regular course of commercial conduct or a particular commercial transaction or act. The commercial character of an activity shall be determined by reference to the nature of the course of conduct or particular transaction or act, rather than by reference to its purpose." 28 U.S.C. § 1603(d).

32. Since March 12, 1996, when the Helms-Burton Act was signed into law, it has been clear that companies doing business with Cuba or in Cuba could face potential liability under the Helms-Burton Act if they knowingly and intentionally traffic in confiscated property.

33. Companies doing business in and/or with Cuba have therefore been on notice since March 12, 1996 that they could face liability under the Helms-Burton Act for trafficking in confiscated property.

C. Remedies Under the Helms-Burton Act's Private Right of Action

34. A person who "traffics" in a U.S. national's confiscated property under the Helms-Burton Act is liable to a plaintiff for money damages equal to:

> (i) the amount which is the greater of —
>
> …
>
> (II) the amount determined [by a court-appointed special master], plus interest; or
>
> (III) the fair market value of that property, calculated as being either the current value of the property, or the value of the property when confiscated plus interest, whichever is greater[.]

22 U.S.C. § 6082(a)(1)(A)(i).

35. Interest under the Act accrues from "the date of confiscation of the property involved to the date on which the action is brought." 22 U.S.C. § 6082(a)(1)(B). Interest is calculated "at a rate equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System" for the calendar week preceding the date of confiscation and compounded annually. 28 U.S.C. § 1961(a) (incorporated by reference in 22 U.S.C. § 6082(a)(1)(B)).

36. A person who "traffics" in a U.S. national's confiscated property under the Act is also liable for a plaintiff's court costs and reasonable attorneys' fees. *See* 22 U.S.C. § 6082(a)(1)(A)(ii).

37. The Act provides for "Increased Liability"

> … If the claimant in an action under this subsection… provides, after the end of the 3-month period described in paragraph (1) notice to —
>
> (i) a person against whom the action is to be initiated, or
>
> (ii) a person who is to be joined as a defendant in the action,
>
> (iii) at least 30 days before initiating the action or joining such person as a defendant, as the case may be, and that person, after the end of the 30-day period beginning on the date the notice is provided, traffics in the confiscated property that is the subject of the action, then that person shall be liable to that claimant for damages computed in accordance with subparagraph (C).

See 22 U.S.C. § 6082(a)(3)(B); *see* 22 U.S.C. § 6082(a)(3)(C)(ii) (allowing damages "3 times the amount determined applicable under paragraph (1)(A)).

FACTUAL ALLEGATIONS

I. THE CONFISCATED PROPERTY

38. Plaintiff, a U.S. national as defined by 22 U.S.C. § 6023(15)(A), owns claims to the Confiscated Property, which includes a 70-year Concession to develop docks, warehouses and port facilities on Mariel Bay.

A. Maritima Mariel SA and the 70-Year Concession

39. Maritima Mariel SA ("Maritima Mariel") was a Cuban corporation set up in 1954 and owned in equal parts by the Blanco Rosell Siblings, including Plaintiff.

40. On August 15, 1955, the Cuban Government granted to Maritima Mariel a 70-year Concession:

> 'Maritima Mariel, SA' is awarded hereby granted the concession to plan, study, execute, maintain, and exploit public docks and warehouses in the Bay of Mariel Bay, province of Pinar del Rio Province, and the construction of new buildings and works, without prejudice to the rights acquired by third persons or entities under previous concessions still in force, for the purposes stated in this paragraph.

Decree 2367 published in the Cuban Official Gazette dated August 15, 1955 at 13864 (English translation).

41. The 70-Year Concession also authorized Maritima Mariel to exercise a series of exceptional rights in the Bay of Mariel, including:

a) The occupation and use, either temporary or permanent, of the lands and waters in the public domain or under private ownership and those of the State, province, or municipality, whenever they are essential for the execution and exploitation of the aforementioned projects and works.

b) The right of mandatory expropriation, in accordance with Decree No. 595 of May 22, 1907 or any other later provision regarding ownership, possession, or use of any real estate or private property rights for land that must be occupied for the work, uses, and services mentioned in Section One, a procedure that may also be used with regard to any rights granted by the State, province, or

municipality with regard to the maritime-land zone or public domain land or property of those entities of the Nation.

c) The right to impose, on privately owned property, any class of easement for the construction of any type of roads, traffic, access, movement, and parking of vehicles, the establishment of power lines (either overhead or underground), pipes and ducts for water, gas, ventilation, or drainage, and, in general, for anything that is inherent or deemed to be necessary for the purposes of carrying out, maintaining, and exploiting the works that the aforementioned paragraph one deals with, also with the power to attend those cases of forced expropriation, as provided for in the preceding subparagraph.

d) The right to evict any tenants, sharecropper, squatter, or occupant of any other description from any property or facilities that must be occupied, either temporarily or permanently, for the projects referred to repeatedly in Section One, making a payment as compensation to the parties evicted equal to the amount of one year of rent paid in each case.

e) The right to carry out the aforementioned acts by means of applying the provisions contained in Law-Decree No. 1015 of August 7, 1953 and No. 1998 of January 27, 1955, whereby the National Finance Agency of Cuba will provide the financing of those projects.

Id. at 13865-13866 (English translation).

42. Both Maritima Mariel and the 70-Year Concession are part of the Confiscated Property and were specifically identified in Resolution 436 as being confiscated from the Blanco Rosell Siblings by Cuba.

B. Central San Ramón, Compañia Azucarera Mariel S.A., and Land

43. In addition to the 70-Year Concession and Maritima Mariel, the Blanco Rosell Siblings owned several other companies, including the sugar mill then known as the Central San Ramón, which they purchased in 1949. Central San Ramón was owned and operated by Compañia Azucarera Mariel S.A. ("Azucarera Mariel"), another company wholly owned by the Blanco Rosell Siblings.

44. The Blanco Rosell Siblings also had extensive land holdings (approximately 11,000 acres) southeast, south and west of Mariel Bay which they owned through Central San Ramón and Azucarera Mariel. Those approximately 11,000 acres included several improvements such as roads, railways, buildings, and utilities.

45. Azucarera Mariel, Central San Ramón and the 11,000 acres of land are part of the Confiscated Property that were specifically named in, and confiscated from the Blanco Rosell Siblings by Cuba, in Resolution 436.

II. CUBA'S CONFISCATION OF THE CONFISCATED PROPERTY

46. On September 29, 1960, per Resolution 436, the Cuban Government announced the confiscation without compensation of all assets and rights, whatever their nature, then owned by the Blanco Rosell Siblings and which are herein defined as the Confiscated Property. Such Confiscated Property includes, *inter alia*, Maritima Mariel, the 70-year Concession, Central San Ramón, Azucarera

Mariel, as well as all the "all shares or stock certificates representing capital of the entities listed in the [other] Whereas of [Resolution 436]," which included, *inter alia*, the 70-Year Concession and all the lands owned by these entities. *See* Resolution 436 at 23406.

47. More specifically, on September 29, 1960, the Cuban Government published Resolution 436 in its Official Gazette on the confiscation without compensation of the following:

> One: To confiscate, on behalf of the Cuban State, all of the property and rights, whatever their nature, forming the assets of the persons listed in the first Whereas, with the exception of property and rights that are strictly of a personal nature.
>
> Two: To confiscate, on behalf of the Cuban State, all shares or stock certificates representing capital of the entities listed in the [other] Whereas of this resolution, along with all of their properties, rights, and shares that are issued and in circulation.
>
> Three: To order the transfer of the properties, rights, and shares forming the assets of the legal entities listed in the preceding provision to the National Institute for Agrarian Reform (I.N.R.A.).
>
> Four: This resolution to be published in the OFFICIAL GAZETTE of the Republic for purposes of notification and fulfillment of what is provided for by Law No. 715 of 1960.

Resolution No. 436(1) published in the Cuban Official Gazette dated September 29, 1960 at 23406 (English translation).

48. In addition to expressly naming the 70-Year Concession and the above-referenced legal entities, Resolution 436 also expressly named the five

Blanco Rosell Siblings as owners of, *inter alia*, the 70-Year Concession, Maritima Mariel, Central San Ramon, and Compania Azucarera Mariel.

49. But for Cuba's confiscation in Resolution 436 published in the official Cuban Gazette on September 29, 1960, the 70-year Concession granted in Decree 2367 issued in 1955 would still be in force. In any event, the Blanco Rosell Siblings' interests in the 70-year Concession were cut short by Cuba's confiscation of the 70-year Concession.

50. According to the Cuban Official Gazette as published on September 29, 1960, the confiscation of the Confiscated Property occurred on August 19, 1960. The story of the confiscation by the Cuban Government was reported by the Revolucion newspaper on September 8, 1960. Both the Cuban Official Gazette and the newspaper Revolucion (now known as Granma following the merger of the Revolucion and Hoy newspapers) are available to the public.

51. The fact of the confiscation of the Blanco Rosell Siblings' property in Cuba was so well known that, on April 18, 2019, the day after the Trump Administration announced that it would allow Helms-Burton Act lawsuits under Title III to go forward, stories published on both Radio Marti and TV Marti identified Plaintiff's claims to the Mariel Special Development Zone as one of the top 10 potential Helms-Burton Claims:

> The Mariel Special Development Zone, the star Cuban project to attract investment, was built on nationalized land where the Carranza-Bernal, Carbonell-González and Blanco-Rosell families owned sugar and hemp processing plants.[1]

52. The Confiscated Property has never been returned nor has adequate and effective compensation ever been provided, including for the 70-Year Concession or any other property interests belonging to Plaintiff. Nor have the claims to the Confiscated Property been settled pursuant to an international claims settlement agreement or other settlement procedure.

53. Plaintiff never abandoned her interest in and claims to the Confiscated Property.

III. THE CUBAN GOVERNMENT INCORPORATED THE CONFISCATED PROPERTY INTO THE ZONA ESPECIAL DE DESAROLLO MARIEL ("ZEDM") (*a/k/a* MARIEL SPECIAL ECONOMIC ZONE)

54. The Zona Especial de Desarollo Mariel ("ZEDM") (*a/k/a* Mariel Special Economic Zone) is an agency or instrumentality of the Cuban Government. Created by statute, the ZEDM is a special economic zone in Cuba with its own legal structure.

55. As stated above, the ZEDM has been referred to in the media as "the star Cuban project to attract investment." *See supra*, ¶ 51.

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[1] *https://www.radiotelevisionmarti.com/a/propiedades-que-ya-podr%C3%ADan-reclamar-en-tribunales-de-eeuu/236777.html/ (last visited December 19, 2020).*

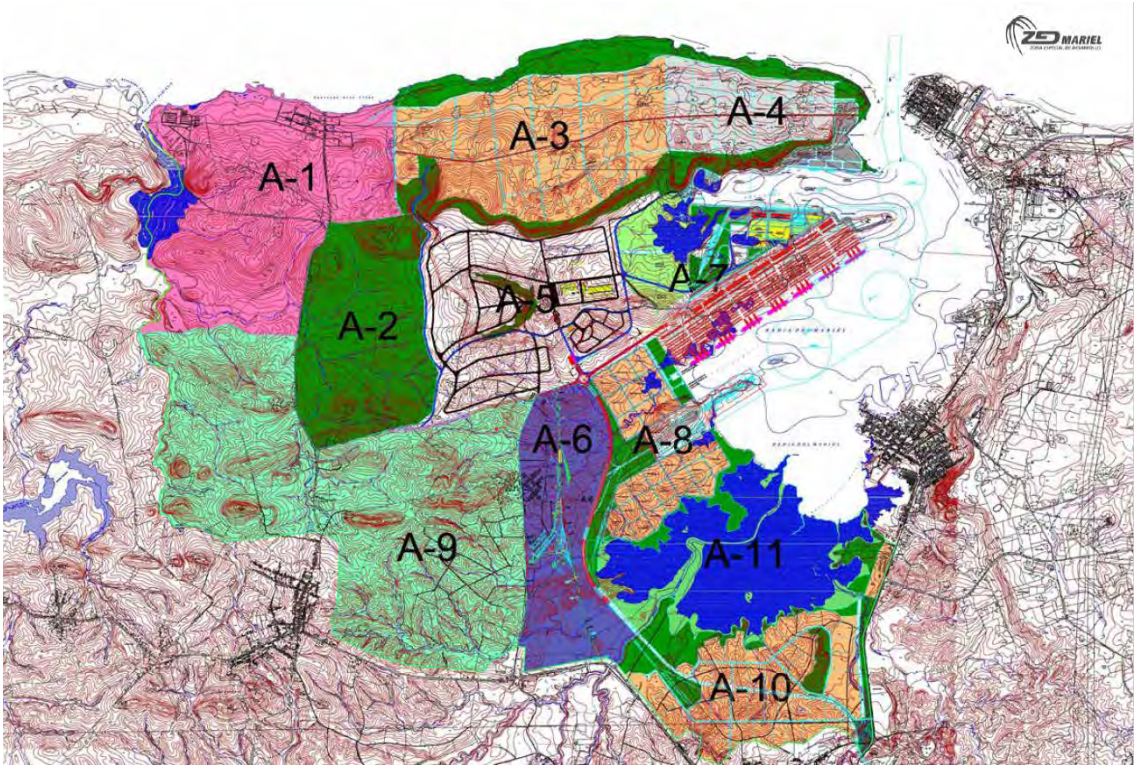
56. Cuba incorporated the Confiscated Property into the ZEDM without the authorization of Plaintiff and therefore the ZEDM traffics in the Confiscated Property.

57. Starting in or around 2009, the Government of Cuba and various non-Cuban corporate partners rebuilt the Port of Mariel and constructed a container terminal in the ZEDM.

58. The ZEDM's container terminal subsumes the Blanco Rosell Siblings' 70-Year Concession rights, pursuant to which they possessed the right, among other things, "to plan, study, execute, maintain, and exploit public docks and warehouses in the Bay of Mariel, province of Pinar del Rio, and the construction of new buildings and works…" *See* Decree 2367 at 13865.

59. The Blanco Rosell Siblings' extensive land holdings on the southeast, south and west sides of Mariel Bay, all of which are part of the Confiscated Property, cover virtually every square meter of ZEDM section A5, which the ZEDM operates as a logistics zone.

60. The Blanco Rosell Siblings' 70-Year Concession encompasses all of Mariel Bay, including, but not limited to, ZEDM section A7, where the ZEDM's container terminal is located. The following map illustrates that ZEDM section A7 encompasses the shoreline of Mariel Bay and land adjacent to the shoreline, areas that are subject to the Blanco Rosell Siblings' 70-Year Concession.



61. The ZEDM is trafficking in the Blanco Rosell Siblings' Confiscated Property within the meaning of the Helms-Burton Act because the ZEDM:

> (i) … transfers, distributes, dispenses, brokers, manages, or … leases, receives possesses, obtains control of, manages, uses, or otherwise acquires or holds an interest in [the Confiscated Property];
>
> (ii) engages in a commercial activity using or otherwise benefitting from [the Confiscated Property],
>
> (iii) causes, directs, participates in, or profits from trafficking (as described clause (i) or (ii) by another person, or otherwise engages in trafficking (as described in clause (i) or (ii) through another person
>
> without the authorization of any United States national who holds a claim to the property.

22 U.S. Code § 6023(13)(A).

62. Those who "plan, study, execute, maintain and exploit public docks and warehouses in Mariel Bay, Pinar del Rio Province, and the construction of new buildings and works" (Decree 2367 at 13865) are trafficking in the Plaintiff's Confiscated Property, including Plaintiff's 70-Year Concession.

IV. CROWLEY'S TRAFFICKING

63. For several years, Crowley has trafficked in the Confiscated Property, by purposefully directing container ships from the port of Jacksonville, Florida to Mariel, Cuba, either directly or by causing, directing, participating in, or profiting from trafficking by or through another person. When in Mariel, the container ships dock at, and/or otherwise use, benefit, and profit from the container terminal in the ZEDM including the ZEDM's ports, docks, warehouses, and facilities. Crowley also engages in commercial activities using or otherwise benefitting from the ZEDM and Plaintiff's Confiscated Property.

64. According to one of Crowley's Cuba-related business websites:

> Crowley is the only U.S. company that has provided efficient, dependable liner shipping service from the U.S. directly to Cuba since 2001. ….
>
> With our partner in Cuba, we offer assistance with Customs clearance and timely delivery to the doors of destinations across Cuba.

See http://lp.crowley.com/en/cuba-express (last visited December 20, 2020, 2020).

65. Likewise, another one of Crowley's business websites touts "four convenient sailings per month" from the United States to the "Port of Mariel":

> We offer regularly scheduled services for full container load (FCL) shipments between Wilmington, North Carolina, and Jacksonville and Port Everglades, Florida, to Cuba, **with four convenient sailings per month to the Port of Mariel.**
>
> In addition to containerized dry cargo, we can handle containerized reefer cargo, heavy lift, small package donations and household goods.

See https://www.crowley.com/logistics/specialized/cuba-express/ (last visited December 20, 2020 (emphasis added).

66. Crowley is therefore trafficking in Plaintiff's Confiscated Property and benefits or profits from the trafficking of the ZEDM and/or the trafficking of others in Plaintiff's Confiscated Property.

67. On August 27, 2020, Plaintiff, through counsel, sent Crowley a letter ("Notice Letter") pursuant to 22 U.S.C. § 6082(a)(3)(D) notifying Crowley that Crowley is trafficking in confiscated property as defined in the Helms-Burton Act, the claims to which are owned by Plaintiff, without the authorization of Plaintiff. On September 28, 2020, a process server delivered the Notice Letter to Crowley.

68. In an email dated September 18, 2020, Crowley's counsel acknowledged receipt of Plaintiff's Notice Letter and requested an introductory call with Plaintiff's counsel.

69. Even after Defendant Crowley received Plaintiff's Notice Letter, giving Crowley actual notice of Plaintiff's claims, Defendant Crowley continued to traffic in the Confiscated Property.

70. On or about December 3, 2020, the ship TUCANA J, International Marine Organization ("IMO") number 9355472, navigated from the Port of Jacksonville to the Bay of Mariel arriving on or about December 5, 2020 for the benefit and/or profit of Crowley.

CLAIM FOR DAMAGES
TITLE III OF THE HELMS-BURTON ACT

71. Plaintiff incorporates by reference paragraphs 1 through 70 as if fully stated herein.

72. This case is brought pursuant to Title III of the Helms-Burton Act, 22 U.S.C. § 6082.

73. Defendant Crowley did traffic, as the term "traffic" is defined in 22 U.S.C. § 6023(13)(A), in the Confiscated Property without authorization of Plaintiff who owns claims to the Confiscated Property. Defendant Crowley is therefore liable to Plaintiff under the Helms-Burton Act.

74. Defendant Crowley has trafficked in the Confiscated Property, by purposefully directing container ships from the port of Jacksonville, Florida to Mariel, Cuba, either directly or by causing, directing, participating in, or profiting from trafficking by or through another person. When in Mariel, the container

ships dock at, and/or otherwise use, benefit, and profit from the container terminal in the ZEDM including the ZEDM's ports, docks, warehouses, and facilities. Crowley also engages in commercial activities using or otherwise benefitting from the ZEDM and Plaintiff's Confiscated Property.

75. Defendant Crowley is therefore trafficking in Plaintiff's Confiscated Property and benefits or profits from the trafficking of the ZEDM in Plaintiff's Confiscated Property.

76. Beginning on or about May 2014, Defendant Crowley also knowingly and intentionally participated in, benefitted from, and profited from the ZEDM's trafficking in the Confiscated Property including, but not limited to, the 70-Year Concession, without the authorization of Plaintiff.

77. Defendant Crowley engages in a commercial activity using or otherwise benefitting from the Confiscated Property, including, but not limited to, the 70-Year Concession.

78. Defendant Crowley also causes, directs, participates in, or profits from trafficking by the ZEDM in the Confiscated Property, including the 70-Year Concession.

79. Crowley has had actual knowledge of Plaintiff's claims to the Confiscated Property since at least September 18, 2020, due to Plaintiff's Notice Letter mentioned above in Paragraphs 67-69.

80. Prior to Crowley's receipt of Plaintiff's Notice Letter, Crowley knew or had reason to know that Plaintiff holds claims to the Confiscated Property.

81. Defendant Crowley's continued trafficking in the Confiscated Property, including the 70-Year Concession, more than 30 days after its receipt of Plaintiff's Notice Letter which continued trafficking subjects Crowley to treble damages. 22 U.S.C. § 6082(a)(3).

82. The ZEDM never sought nor obtained Plaintiff's authorization to traffic in the Confiscated Property, including the 70-Year Concession, the land, or any other Confiscated Property at any time.

83. The ZEDM's knowing and intentional conduct with regard to the Confiscated Property constitutes trafficking as defined 22 U.S.C. § 6023(13)

84. Defendant Crowley did not seek nor obtain Plaintiff's authorization to traffic in the Confiscated Property, including in the 70-Year Concession or any other property interests at any time.

85. Defendant Crowley's knowing and intentional conduct with regard to the Confiscated Property constitutes trafficking as defined in 22 U.S.C. § 6023(13).

86. As a result of Defendant Crowley's trafficking in the Confiscated Property, Crowley is liable to Plaintiff for all money damages allowable under 22 U.S.C. § 6082(a) including, but not limited to, those equal to:

a. The amount greater of: … (i) the amount determined by a special master pursuant to 22 U.S.C. § 6083(a)(2); or (ii) the "fair market value" of the Confiscated Property, plus interest;

b. Three times the amount determined above (treble damages); and

c. Court costs and reasonable attorneys' fees.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendant Crowley Maritime Corporation, as follows:

A. Ordering Defendant to pay damages (including treble damages) including prefiling interest as provided by the Act;

B. Ordering Defendant to pay prejudgment interest on any amounts awarded;

C. Ordering Defendant to pay attorneys' fees, costs, and expenses; and

D. Ordering such other relief as may be just and proper.

JURY DEMAND

Plaintiff demands a jury trial on all issues so triable, and a trial pursuant to Rule 39(c), Federal Rules of Civil Procedure, as to all matters not triable as of right by a jury.

Dated: December 20, 2020 Respectfully submitted,

/s/ Gerry A. Giurato
Gerry A. Giurato
Florida Bar No. 0032548
MURPHY & ANDERSON, P.A.
1501 San Marco Boulevard
Jacksonville, Florida 32207
Telephone: (904) 598-9282
Facsimile: (904) 598-9283
ggiurato@murphyandersonlaw.com
Counsel for Plaintiff

/s/ David A. Baron
David A. Baron
Melvin White
Laina C. Lopez
BERLINER CORCORAN & ROWE LLP
1101 17th Street, N.W., Suite 1100
Washington, D.C. 20036-4798
Tel: (202) 293-5555
Fax: (202) 293-9035
dbaron@bcr-dc.com
mwhite@bcr-dc.com
llopez@bcr-dc.com
jlm@bcr-dc.com
Trial Counsel for Plaintiff

/s/ Richard W. Fields
Richard W. Fields
Martin Cunniff
FIELDS PLLC
1701 Pennsylvania Ave, N.W., Suite 200
Washington, D.C. 20006
Tel: (833) 382-9816
fields@fieldslawpllc.com
MartinCunniff@fieldslawpllc.com
Counsel for Plaintiff

/s/ John S. Gaebe

John S. Gaebe
Florida Bar No. 304824
Law Offices of John S. Gaebe P.A.
5870 SW 96 St.
Miami, Florida 33156
johngaebe@gaebelaw.com
Counsel for Plaintiff

JS 44 (Rev. 06/17) FLSD Revised 06/01/2017

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)* **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

I. (a) PLAINTIFFS ODETTE BLANCO DE FERNANDEZ née BLANCO ROSELL

DEFENDANTS CROWLEY MARITIME CORPORATION

(b) County of Residence of First Listed Plaintiff Miami-Dade
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Duval
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys *(Firm Name, Address, and Telephone Number)*

Gerry Giurato, Murphy Anderson, 1501 San Marco Blvd.
Jacksonville, Florida 32207 (904) 380-8083

Attorneys *(If Known)*

Unknown

(d) Check County Where Action Arose: ☐ MIAMI-DADE ☐ MONROE ☐ BROWARD ☐ PALM BEACH ☐ MARTIN ☐ ST. LUCIE ☐ INDIAN RIVER ☐ OKEECHOBEE ☐ HIGHLANDS

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☑ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff) and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☑ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☑ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: Nature of Suit Code Descriptions

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Med. Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence

Other:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee – Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 835 Patent – Abbreviated New Drug Application
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729 (a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☒ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

- ☑ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Re-filed **(See VI below)**
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district *(specify)*
- ☐ 6 Multidistrict Litigation Transfer
- ☐ 7 Appeal to District Judge from Magistrate Judgment
- ☐ 8 Multidistrict Litigation – Direct File
- ☐ 9 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S)

(See instructions): a) Re-filed Case ☐YES ☐ NO b) Related Cases ☐YES ☐ NO

JUDGE: **DOCKET NUMBER:**

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause ***(Do not cite jurisdictional statutes unless diversity)***:
Title III of the Helms-Burton Act. 22 U.S.C. Sections 6081-85. Trafficking in property confiscated by Cuba.

LENGTH OF TRIAL via 20 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A **CLASS ACTION** UNDER F.R.C.P. 23

DEMAND $ in excess of $1 billion

CHECK YES only if demanded in complaint:

JURY DEMAND: ☑ Yes ☐ No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

DATE December 20, 2020

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT IFP JUDGE MAG JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction**. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked. Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Nature of Suit**. Nature of Suit. Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: Nature of Suit Code Descriptions.

V. **Origin**. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Refiled (3) Attach copy of Order for Dismissal of Previous case. Also complete VI.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

Remanded from Appellate Court. (8) Check this box if remanded from Appellate Court.

VI. **Related/Refiled Cases**. This section of the JS 44 is used to reference related pending cases or re-filed cases. Insert the docket numbers and the corresponding judges name for such cases.

VII. **Cause of Action**. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity**. Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VIII. **Requested in Complaint**. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

Date and Attorney Signature. Date and sign the civil cover sheet.