IN THE UNITED STATES DISRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

Case No. 1:19-cv-23588-Bloom/Louis

HAVANA DOCKS CORPORATION,

Plaintiff,

v.

MSC CRUISES (USA) INC. and
MSC CRUISES SA CO.

Defendants.

MSC CRUISES' MOTION FOR
CERTIFICATION FOR INTERLOCUTORY APPEAL

Defendants MSC Cruises (USA) Inc. and MSC Cruises SA Co. (collectively, "MSC Cruises"), through counsel, files this Motion for Certification for Interlocutory Appeal.

INTRODUCTION

This Court's recent Order, D.E. 55, granting Plaintiff Havana Docks Corporation's ("Havana Docks") Motion for Reconsideration and Leave to Amend the Complaint presents a legal question of first impression that forms the quintessential basis for certification for interlocutory appellate review under 28 U.S.C. § 1292(b). The Court's interpretation of Title III of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act (the "Act" or "Title III") presents a pure question of controlling law over which reasonable minds could clearly differ, the resolution of which would dispose of many of Havana Docks' claims and materially advance this litigation. Accordingly, MSC Cruises respectfully requests that the Court allow immediate appeal of its Order, D.E. 55, and certify the following question for immediate interlocutory appeal:

> Whether "Title III's plain language creates liability for trafficking in the broadly defined 'confiscated property'—i.e., in any property that was nationalized, expropriated, or otherwise seized by the Cuban Government . . . without the property having been returned or adequate and effective compensation [paid]—not in a particular interest in confiscated property," and "regardless of … when the trafficking took place."[1]

Interlocutory appellate review here is appropriate and justified. First, the question presented is a pure legal question about the proper statutory interpretation of Title III, which has never before been subject to judicial scrutiny on the instant issue. This purely legal question controls the statutory scope of the liability provision in Title III and thus impacts this case as well as myriad others.

Second, there is substantial ground for difference of opinion on the issue because, among other reasons, this question has never been asked of or answered by any other court before. Indeed, even this Court has – on the three separate occasions in which it has been presented with the issue – interpreted the relevant portions of Title III differently. This case, related cases before this Court, and similar Title III actions, would benefit from immediate appellate review.

Finally, as this Court has previously found, resolution of a question regarding which

[1] Order, D.E. 55, at 24-25; Order, DE 40 at 7.

property must be trafficked in to sustain a cause of action under Title III would materially advance the ultimate termination of the litigation. *See* Order, *Havana Docks Corp. v. Carnival Corp.*, No. 19-cv-21724 (S.D. Fla. Oct. 8, 2019) (the "*Carnival* Case"), ECF No. 56 at 3-4 ("*Carnival* Order"). Allowing for an interlocutory appeal would allow the Circuit Court to answer this threshold legal question at the outset of this action, serving not only the simplification – if not the entire resolution – of this action, but also at least three other related cases before this Court and future cases involving billions of dollars in alleged damages arising under Title III.

For these reasons, certification under Section 1292(b) is proper.

BACKGROUND

The Court is well familiar with the substance and procedural history of this case. *E.g.*, Order, D.E. 55 at 3-8. MSC Cruises sets forth a brief history of the relevant proceedings leading to the instant Order for which it seeks immediate appeal.

The first action Plaintiff filed in a series of related lawsuits under Title III was against Carnival Corporation ("Carnival"). *See generally* Complaint, *Carnival* Case, ECF No. 1. Carnival moved to dismiss, arguing in part that Plaintiff failed to allege that Carnival "trafficked" in any property interest owned by Havana Docks because its confiscated concession to own and operate three piers at the Havana Port expired on its own terms in 2004, and the alleged trafficking at the piers in question did not occur until 2016. This Court denied that motion, finding that "the Libertad Act does not expressly make any distinction whether such trafficking needs to occur while a party holds a property interest in the property at issue," and that "the Defendant incorrectly conflates a claim to a property and a property interest." *Carnival* Case, ECF 47, at 8. Carnival then sought a certification of interlocutory appeal of the order pursuant to 28 U.S.C. § 1292(b). This Court denied the motion. *Id.* at D.E. 56 at 4, 5.

On August 27, 2019, Havana Docks filed three additional actions under Title III against: (1) MSC Cruises, *see generally* D.E. 1; (2) Royal Caribbean Cruises, Ltd. ("Royal Caribbean"), *see generally* Complaint, *Havana Docks Corp. v. Royal Caribbean Cruises, Ltd.*, No. 19-cv-23590 (S.D. Fla. Aug. 27, 2019), ECF No. 1 (the "*Royal Caribbean* Case"); and (3) Norwegian Cruise Line Holdings, Ltd. ("Norwegian"), *see generally* Complaint, No. 19-cv-23591 (S.D. Fla. Aug.

27, 2019), ECF No. 1 (the "*Norwegian* Case").

MSC Cruises and Norwegian both moved to dismiss Plaintiff's Complaint, arguing in relevant part that Plaintiff's claim failed as a matter of law because Plaintiff's interest in the "Subject Property" was a leasehold interest that expired in 2004, and Plaintiff therefore could only assert a claim under Title III for trafficking that occurred prior to the expiration of its leasehold interest. *See* D.E. 24 at 8-9; *Norwegian* Case, ECF No. 31 at 16-20.

In ruling on MSC Cruises' and Norwegian's Motions to Dismiss, the Court found it necessary to reconsider its ruling in the *Carnival* case that denied Carnival's Motion to Dismiss. Specifically, the Court recognized that "[t]he Court in [the *Carnival* case] agreed with Plaintiff that the interpretation suggested by Carnival (and Defendants here) conflates a claim to a property and a property interest. However, upon further review and analysis, the court reconsiders its previous interpretation of the statute given the time-limited nature of Plaintiff's claim, a fact not in dispute." D.E. 40, at 10; *Norwegian* Case, ECF 42 at 10. The Court explained that any contrary result would improperly entitle Plaintiff to recover for trafficking in other property interests, thereby granting Plaintiff more rights to the Subject Property than it otherwise would have had by virtue of the confiscation. D.E. 40 at 9; *Norwegian* Case, ECF No. 42 at 9. Thus, the Court granted MSC Cruises' and Norwegian's Motions to Dismiss, dismissing both cases with prejudice. *MSC Cruises*, 2020 WL 59637, at *5; *Norwegian*, 2020 WL 70988, at *5.

Thus, the Court has already considered and reconsidered the basis for its decision to dismiss this case with prejudice for perhaps understandable reasons—no court has ever ruled on these issues and the Helms-Burton Act itself had been suspended from enforcement and laid dormant for decades. The Court held in both this case and in the *Norwegian* Case that Plaintiff could not state a claim under Title III based on allegations of trafficking that took place after Plaintiff's property interest in the subject Cuban property expired in 2004. Plaintiff nonetheless asked the Court for the fourth time to find that the fact that Plaintiff's property interest expired years before the alleged trafficking is legally irrelevant.

The Court then granted Havana Docks' Motion for Reconsideration and reconsidered the reasoning that led to it denying Carnival's Motion to Dismiss but then granting MSC Cruises'

Motion to Dismiss.

Because the Order involves this controlling question of law for which there is substantial difference for opinion, and immediate appeal may completely eliminate a substantial portion, if not all, of Plaintiff's claim premised on the time-limited concession such that its resolution would materially advance the ultimate termination of the litigation, this issue meets all of the statutory requirements and should be certified for interlocutory review.

ARGUMENT

Section 1292(b) is designed to facilitate interlocutory appeals when immediate "appeal may avoid protracted and expensive litigation . . . [and] where a question which would be dispositive of the litigation is raised and there is serious doubt as to how it should be decided." *McFarlin v. Conseco Servs., LLC*, 381 F.3d 1251, 1256 (11th Cir. 2004) (quoting 1958 U.S.C.C.A.N. 5255, 5260-61). Accordingly, Section 1292(b) allows a district court to certify an issue for interlocutory appeal when: (1) the challenged ruling involves controlling questions of law, (2) there is substantial ground for difference of opinion on the ruling, and (3) an immediate appeal may materially advance the ultimate termination of the litigation. 28 U.S.C. § 1292(b).[2] Although certification of an order under § 1292(b) is discretionary, it is "the duty of the district court . . . to allow an immediate appeal to be taken when the statutory criteria [in § 1292(b)] are met." *Ahrenholz v. Bd. of Tr. of the Univ. of Ill.*, 219 F.3d 674, 677 (7th Cir. 2000).

Each of these three factors strongly support certification of an interlocutory appeal in this case, especially given the practical considerations in providing certainty in interpretation of a

[2] Consistent with the statute, courts in this Circuit do not hesitate to certify such questions where these requirements are met. *See Rodrigues v. CNP of Sanctuary, LLC*, 11-cv-80668, 2012 WL 12895255, at *2 (S.D. Fla. May 8, 2012); *see also Grabein v. 1-800-Flowers.com, Inc.*, No. 07-cv-22235, 2008 WL 11417701, at *2 (S.D. Fla. Mar. 12, 2008) (granting motion to certify question for appeal on a "close question of statutory interpretation upon which reasonable minds could differ" as Congress did not provide a sufficient definition for a material term under the statute); *Bastian v. United Services Auto. Ass'n*, 150 F. Supp. 3d 1284, 1296–97 (M.D. Fla. 2015) (citations omitted) (granting motion to certify question for appeal in a "case of first impression" where "there is enough room for interpretation [of Florida Statute] to provide 'substantial ground for difference of opinion'"); *Frye v. Ulrich GmbH & Co. KG*, 3:08-cv-158-MEF, 2010 WL 3172167, at *3 (M.D. Ala. Aug. 11, 2010) (granting motion to certify question for appeal where "there is minimal Eleventh Circuit case law").

statute. MSC Cruises respectfully requests 1292(b) certification of the following question:

> Whether "Title III's plain language creates liability for trafficking in the broadly defined 'confiscated property'—i.e., in any property that was nationalized, expropriated, or otherwise seized by the Cuban Government . . . without the property having been returned or adequate and effective compensation [paid]—not in a particular interest in confiscated property," and "regardless of … when the trafficking took place."[3]

I. The Challenged Ruling Involves a Controlling Question of Law

Under Section 1292(b), a "'controlling question of law' arises where the court of appeals can rule on a controlling question of pure law without having to search deep into the record in order to discern the facts." *Carnival* Case, ECF No. 56 at 3 (citing *Allapattah Servs., Inc. v. Exxon Corp.*, 333 F.3d 1248, 1252-53 (11th Cir. 2003)); *Nat'l Union Fire Ins. Co. of Pittsburgh v. Tyco Integrated Sec., LLC*, 13-CIV-80371, 2015 WL 11251735, at *2 (S.D. Fla. July 8, 2015). The Eleventh Circuit has explained that a "question of law" often involves determining:

> "the meaning of a statutory [ ] provision . . . . The term "question of law" does not mean the application of settled law to fact. It does not mean any question the decision of which requires rooting through the record in search of facts . . . . Instead, what the framers of §1292(b) had in mind is more of an abstract legal issue or what might be called one of "pure" law, matters the court of appeals can decide quickly and cleanly without having to study the record.

McFarlin, 381 F.3d at 1258 (quoting *Ahrenholz*, 219 F.3d at 676). Accordingly, courts in this district have held that

> [t]he requirement that a question be controlling is not read literally. It could not be, because it is never one hundred percent certain in advance that the resolution of a particular question will determine the outcome or even the future course of the litigation. Therefore a growing number of decisions have accepted the rule that a question is controlling, even though its decision might not lead to reversal on appeal, if interlocutory reversal might save time for the district court, and time and expense for the litigants.

Rodrigues, 2012 WL 12895255 at *3 (internal quotations and citations omitted). "It is enough that the question is 'serious to the conduct of the litigation, either practically or legally.'" *Id.* Further, the Eleventh Circuit has explained that a controlling question of law may

[3] Order, D.E. 55 at 24-25; Order, D.E. 40 at 7.

be established by showing the challenged ruling is "directly associated with the disposition of at least a claim, if not the entire case itself." *Harris v. Luckey*, 918 F.2d 888, 892 (11th Cir. 1990).

Both the Eleventh Circuit and courts in this district have not hesitated to use Section 1292 to answer threshold statutory questions. For example, in *Barrientos v. CoreCivic, Inc.*, 951 F.3d 1269 (11th Cir. 2020), the plaintiffs brought a class action suit against a private contractor who ran a detention facility. *Id.* at 1271. The plaintiffs alleged that the detention center violated the Trafficking Victims Protection Act ("TVPA") by coercing them to perform labor. *Id.* The defendant moved to dismiss, arguing that it was not covered by the TVPA as a private governmental contractor. *Id.* Although the district court disagreed, it certified that issue for immediate appeal, as it raised a key, pure law question of statutory interpretation. *Id.* The Circuit Court accepted the appeal. *Id.*

Likewise, in *Grabein v. 1-800-Flowers.com, Inc.*, 07-22235-CIV, 2008 WL 11417701 (S.D. Fla. Mar. 12, 2008), the plaintiff filed a class action complaint under the Fair and Accurate Credit Transactions Act ("FACTA"). *Id.* at *1. The defendants moved to dismiss, arguing that FACTA did not apply to e-commerce transactions because the seller did not "print" a receipt, as required by the statute. *Id.* The court denied the motion. *Id.* Nonetheless, recognizing that the question turned "entirely on a court's interpretation of this statutory term" the Court found the issue "controlling" and certified an appeal. *Id.* at * 2; *see also S.R. v. United States*, 555 F. Supp. 2d 1350, 1360 (S.D. Fla. 2008) (whether equitable tolling is available under the FTCA is a pure law question and is thus controlling).

Here, this Court has squarely raised a pure question of law under the Helms-Burton Act: how to construe the Act. Title III provides that "any person that . . . 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[.]" 22 U.S.C. § 6082(a)(1)(A). This Court has now held that its previous decision granting MSC Cruises' Motion to Dismiss "construed the liability provision of § 6082(a)(1)(A) too narrowly." Order, D.E. 55 at 19. The Court went on to

hold that "Title III's plain language creates liability for trafficking in the broadly defined "confiscated property" . . . . ***not in a particular interest in confiscated property***. Order at 25 (emphasis added).

This question of statutory interpretation is a pure question of law untethered to the specific facts of this case (or any of the other similar cruise line cases). This issue is analogous to one reviewed just over a month ago by the Eleventh Circuit on consideration under 1292(b) certification. *See Barrientos*, 951 F.3d at 1275. In *Barrientos*, the court considered:

> Whether the TVPA [Trafficking Victims Protection Act] applies to work programs in federal immigration detention facilities operated by private for-profit contractors is a controlling question of law as to which there is substantial ground for difference of opinion.

Id. The Eleventh Circuit's review was, thus, limited to the abstract legal issue of the TVPA's application to certain classes of cases. *See id*. Here, the question is similarly about the scope of application of Title III to classes of cases where the interest in which a party is alleged to have trafficked in is not the same specific interest that was confiscated.

This case is also similar to one presented to the Eleventh Circuit in *Laperriere v. Vesta Ins. Group, Inc.*, which likewise sought to discern the contours of liability under the text of a statute and which was also certified under 1292(b). *See* 526 F.3d 715, 718 (11th Cir. 2008). There, the court framed the question as follows:

> This interlocutory appeal presents an issue of first impression in the circuit courts: whether, and to what extent, the proportionate liability scheme of section 21(D)(f) of the Securities Exchange Act of 1934 (the "Act"), enacted as part of the Private Securities Litigation Reform Act of 1995 (the "PSLRA"), amends section 20(a) of the Act, under which a person who controls a violator of the Act is "liable jointly and severally with and to the same extent" as that violator.

Id. As here, the court in *Laperriere* was called upon to determine who could be liable under the PSLRA in light of a larger statutory framework. Whereas in that case the court was tasked with ascertaining what the Congress meant by "covered person" under the PSLRA, here MSC Cruises similarly seeks a closer inspection of the Congress's meaning of "such property" under Title III.

Notably, the question MSC Cruises presents here is also materially different from the question that the Court previously declined to certify in the *Carnival* case. There, Carnival first

asked this Court to certify for appeal "whether Helms-Burton applies when the only alleged acts of trafficking occurred after the plaintiff's rights to the property would have expired on their own terms independent of any confiscation." Mot. for Cert., *Carnival* Case, ECF No. 49 at 3. That question sought immediate appeal of this Court's earlier holding in *Carnival*, which held only that "the Court finds that the Complaint sufficiently alleges that the Plaintiff owns a claim to the Subject Property." *Carnival* Case, ECF 47 at 8-9. By contrast, the proffered question in this case focuses on the text of the statute itself.[4]

Moreover, the question of whether a defendant must traffic in the property interest that was confiscated from the plaintiff under Title III is already being debated in several fora beyond the four *Havana Docks* cases before this Court. *E.g.*, Mem. of Law in Supp. of Defs.' Mot. to Dismiss, *John S. Shepard Family Tr. v. NH Hotels USA, Inc.*, No. 19-cv-9026 (S.D.N.Y. Jan. 1, 2020) (arguing that dismissal was required because "Plaintiff's leasehold interest in the Hotel Capri expired thirty-seven years before Defendants were alleged to have trafficked in the property"); Def.'s Mot. to Dismiss, *Sucesores de Don Carlos Nunez y Dona Pura Galvez, Inc. v. Societe Generale, S.A.*, No. 19-cv-22842 (S.D. Fla. Oct. 29, 2019) (arguing that dismissal is required because the plaintiff did "not plead that SG trafficked in the particular property that Plaintiff asserts was confiscated"); *Glen v. American Airlines Inc.*, No. 1:19-cv-23994 (S.D. Fla. April 15, 2020) (notice of supplemental authority of the *Norwegian* Case noting that "These issues [in *Norwegian*] were raised by American Airlines in its motion to dismiss and were addressed by Plaintiff in his responsive memorandum"). This demonstrates that the inquiry is ***not*** case-specific, but something more abstract and has "general relevance to other cases in the same area of law." *McFarlin*, 381 F.3d at 1259 (11th Cir. 2004); *accord Brown v. Bullock*, 294 F.2d 415, 417 (2d Cir. 1961) (certification should be granted on issues of first impression if their resolution would avoid a lengthy trial and "determination was likely to have precedential value for a large number of other

[4] In addition, if this Court has any qualms that the inquiry, as framed, requires more than a pure legal inquiry, this is remediable because the Circuit Court has the ability to narrow the scope of the certified issue as the *Barrientos* Court did just a few weeks ago. *See Barrientos*, 951 F.3d at 1275 ("[W]hile we 'may not reach beyond the certified order,' we 'may address any issue fairly included within the certified order.' That said, we think it appropriate to limit our review to the discrete and abstract legal issue the district court identified.")

suits . . . now pending").

For these reasons, the issue on appeal involves a controlling question of law.

II. There are Substantial Grounds for Difference of Opinion

This case has raised difficult and debatable issues. Given the complexity and novelty of these issues, this Court has reconsidered its views twice. In similar circumstances, Courts have found reasonable grounds for disagreement for the purposes of Section 1292(b) certification. *Winter v. United Parcel Serv., Inc.*, 2:14-CV-10555-AJTMJH, 2016 WL 11214560, at *1 (E.D. Mich. Jan. 12, 2016); *Unger v. United States*, 90 CIV. 0384 (WK), 1994 WL 90358, at *1 (S.D.N.Y. Mar. 16, 1994); *Flying Tiger Line, Inc. v. Cent. States, Sw. & Se. Areas Pension Fund*, CIV.A. 86-304 CMW, 1986 WL 14904, at *2 (D. Del. Dec. 4, 1986). In fact, the Third Circuit took it as a given that when a District Court requires multiple orders to settle a legal issue, the issue is debatable, explaining: "[c]ertainly the instant case involves an order over which a difference of opinion might exist since it took two district court opinions to arrive at a decision." *Katz v. Carte Blanche Corp.*, 496 F.2d 747, 754–55 (3d Cir. 1974).

The novelty of the issues raised compounds the appropriateness for interlocutory certification. *See, e.g., Laperriere*, 526 F.3d at 719 (addressing an issue of first impression on certification under Section 1292(b)); *Adams v. Florida Power Corp.*, 255 F.3d 1322, 1322 (11th Cir. 2001) (same); *Reese v. BP Expl. (Alaska) Inc.*, 643 F.3d 681, 688 (9th Cir. 2011) (holding that "[c]ourts traditionally will find that a substantial ground for difference of opinion exists where novel and difficult questions of first impression are presented"); *Bastian*, 150 F. Supp. 3d at 1296–97 (citations omitted) (granting motion to certify question for appeal in a "case of first impression" where "there is enough room for interpretation [of Florida Statute] to provide 'substantial ground for difference of opinion'"); *Frye v. Ulrich GmbH & Co. KG*, 08-cv-158, 2010 WL 3172167, at *3 (M.D. Ala. Aug. 11, 2010) (granting motion to certify question for appeal where "there is minimal Eleventh Circuit case law"); *Solutia Inc. v. McWane, Inc.*, 03-cv-1345, 2008 WL 11337774, at *1 (N.D. Ala. June 25, 2008) (finding substantial grounds for difference of opinion when "[n]either the Supreme Court nor the Eleventh Circuit Court of Appeals has answered this question").

Simply put: on an issue of first impression, the Court has now reached three conclusions. The issue is debatable.

III. Immediate Appeal Would Materially Advance the Ultimate Termination of This Litigation

The requirement "that the controlling question of law 'may materially advance the ultimate termination of the litigation,' is a straightforward one, simply requiring an examination of whether the 'resolution of [the] controlling legal question would serve to avoid a trial or otherwise substantially shorten the litigation.'" *Nat'l Union*, 2015 WL 11251735, at *5 (citing *McFarlin*, 381 F.3d at 1259.

Here, immediate appeal will also "materially advance the ultimate termination of the litigation," 28 U.S.C. § 1292(b), because if MSC Cruises is correct, such resolution would "avoid protracted and expensive litigation." *Rodrigues*, 2012 WL 12895255. Indeed, if the Circuit Court decides the question presented here in MSC Cruises' favor, that determination would dispose of every aspect of the case dealing with Plaintiff's time-limited concession. Given that it is not clear what (if anything) would remain of the case once that issue is resolved, it also has the potential to "dispose of the entire case." *Washburn v. Beverly Enterprises-Georgia, Inc.*, 106-051, 2007 WL 9700927, at *1 (S.D. Ga. Jan. 8, 2007) (decision on an issue can materially advance litigation if it would avoid trial); *In re Pac. Forest Prods.*, 335 B.R. 910, 924 (S.D. Fla. 2005) (granting certification for appeal and reasoning that this prong is met when, "a decision on the merits will clarify the issue for other [] litigants, and otherwise 'preclude the need for further appeals of this type which delay the [] proceedings'").[5]

The impact of this Court's first reconsideration of this issue—dismissal of this action with prejudice—is instructive on this point. *See* D.E. 40 at 10 (granting motion to dismiss ***with***

[5] The certified question need not dispose of the entire case, even though it may here. The Eleventh Circuit has routinely accepted 1292 certifications that raise non-wholly-dispositive issues. *E.g.*, *Laperriere*, 526 F.3d at 718 (accepting 1292 certification to decide damages questions); *Tucker v. Fearn*, 333 F.3d 1216, 1218 (11th Cir. 2003) (accepting 1292 certification to decide whether the plaintiff could recover loss of society damages under maritime law even though the plaintiff also asserted other damages claims); *Allapattah Services, Inc. v. Exxon Corp.*, 333 F.3d 1248, 1252-53 (11th Cir. 2003) (accepting 1292 certification to determine whether district court had subject matter jurisdiction over absent class members whose claims fell below the

prejudice, holding that the issue regarding the nature of Havana Docks' time-limited underlying ownership interest was dispositive, and reasoning that because the Certified Claim was predicated on Plaintiff's time-limited leasehold interest, Havana Docks could not, as a matter of law, state a claim for relief under the Act based on trafficking that occurred after Plaintiff's leasehold interest expired); Order Mot. to Dismiss, *Norwegian* Case, ECF No. 42 at 10 (same).

In effect, an appellate court ruling on this dispositive issue would prevent protracted and expensive litigation on, among other things, the core concession right central to this case because this case will involve extensive and lengthy international discovery. *See In re Managed Care Litig.*, 2002 WL 1359736, *1 (S.D. Fla. 2002) (certification of immediate appeal order based on "extent to which additional time and expense may be saved by the appeal"). Further, the impact of the resolution of the instant question has multiplying benefits beyond this case as it will resolve issues in at least three other separate cases pending in this court, as well as other cases in this Court arising under Title III, each relying on this Court for guidance. *See, e.g.*, *Carnival* Case; *Royal Caribbean* Case; *Norwegian* Case.

Because all three requirements are met, this Court should certify this action for appeal.

CONCLUSION

For the foregoing reasons, the Court should enter an Order granting this Motion and amending its Order of reconsideration to certify it for interlocutory appeal.

CERTIFICATE OF GOOD FAITH CONFERENCE

Pursuant to Local Rule 7.1(a)(3), counsel for MSC Cruises certifies that he has conferred with opposing counsel, and Plaintiff opposes the relief sought herein.

Dated: April 27, 2020

Respectfully submitted,

/s/ J. Douglas Baldridge
J. Douglas Baldridge (Florida Bar No. 708070)
Andrew T. Hernacki (admitted *pro hac vice*)
Justin B. Nemeroff (admitted *pro hac vice*)

jurisdictional threshold even though some members claims exceeded the jurisdictional threshold).

VENABLE LLP
600 Massachusetts Avenue
Washington, D.C. 20001
T: (202) 344-4703
F: (202) 344-8300
JBaldridge@venable.com
ATHernacki@venable.com
JBNemeroff@venable.com

Counsel for Defendants MSC Cruises (USA) Inc. and MSC Cruises SA Co.

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of April 2020, a copy of the foregoing was filed through the Court's CM/ECF management system and electronically served on counsel of record.

/s/ J. Douglas Baldridge