

No. 23-10171

In the
United States Court of Appeals
for the **Eleventh Circuit**

HAVANA DOCKS CORPORATION,

Plaintiff-Appellee,

v.

ROYAL CARIBBEAN CRUISES, LTD., ET AL.,

Defendants-Appellants.

On Appeal from the United States District Court,
for the Southern District of Florida, No. 1:19-cv-23591-BB,
Hon. Beth Bloom, *United States District Judge*

**CRUISE LINES INTERNATIONAL ASSOCIATION'S
REPLY IN SUPPORT OF MOTION FOR LEAVE TO FILE
BRIEF AS AMICUS CURIAE SUPPORTING
DEFENDANTS-APPELLANTS AND REVERSAL**

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**CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rule 26.1-1, Amicus Curiae Cruise Lines International Association (CLIA) makes the following disclosures: CLIA is a non-profit corporation organized under the laws of the District of Columbia. CLIA operates under 501(c)(6) of the Internal Revenue Code. It has no parent corporation and, as it has no stock, no publicly held company owns 10% or more of its stock.

Pursuant to Eleventh Circuit Rule 26.1-2(b), CLIA certifies that, to the best of its knowledge, the Certificate of Interested Persons contained in its Motion for Leave to File Brief as Amicus Curiae in Support of Defendants-Appellants and Reversal, filed July 7, 2023, is complete and correct.

**REPLY IN SUPPORT OF MOTION FOR LEAVE TO FILE BRIEF
AS AMICUS CURIAE SUPPORTING
DEFENDANTS-APPELLANTS AND REVERSAL**

The Court should grant the Cruise Lines International Association (CLIA) leave to file its proposed brief as amicus curiae in support of Defendants-Appellants. As CLIA explained in its motion for leave, the proposed brief provides useful context that is not otherwise before the Court. For instance, CLIA’s brief describes the itineraries of non-cruise-line trips to Cuba between 2015 and 2017 to show that other organizations interpreted the lawful-travel regulation the same way the cruise lines did – to permit travel that exposed visitors to the art, literature, and culture of Cuba. The proposed brief also describes the chilling effects on the cruise industry that would result if this Court affirms the district court’s atextual interpretation of the regulation. This important context is ample reason to grant CLIA leave to file its proposed brief. *See Neonatology Assocs., P.A. v. Commissioner*, 293 F.3d 128, 132 (3d Cir. 2002) (Alito, J.) (leave to file is appropriate where an amicus curiae “collect[s] background or factual references that merit judicial notice”); *Prairie Rivers Network v. Dynegy Midwest Generation, LLC*, 976 F.3d 761, 763 (7th Cir. 2020) (Scudder, J., in chambers) (leave to file is warranted where the brief “[h]ighlight[s] factual, historical, or legal nuance glossed over by

the parties,” “[e]xplain[s] the broader regulatory or commercial context in which a question comes to the court,” or “[p]rovid[es] practical perspectives on the consequences of potential outcomes”).

Plaintiff-Appellee Havana Docks opposes CLIA’s motion, but its arguments lack merit.

First, Havana Docks contends that Defendants-Appellants seek to use CLIA’s proposed brief to “evade the court’s word limitations.” ECF No. 101, at 2 (Opp.). Basic math refutes that claim. Each of the four Defendants-Appellants was entitled to file a separate brief of up to 13,000 words, for a total of 52,000 words. *See* Fed. R. App. P. 32(a)(7)(B)(i). Even so, three of the Defendants-Appellants successfully sought leave to file a joint opening brief not to exceed 20,000 words – a reduction of 19,000 words as compared with the aggregate limit to which they were entitled. *See* ECF No. 76 (requesting leave); ECF No. 78 (granting leave). CLIA has its own arguments to make in the proposed amicus curiae brief – arguments the parties have not made and which do not reflect an attempt to exceed the aggregate word limits that Defendants-Appellants’ briefs don’t approach in the first place.

Second, and relatedly, Havana Docks argues that the Court should deny leave to file because four of the six voting members of CLIA’s executive

committee are Defendants-Appellants in this case. Havana Docks thus argues that CLIA cannot provide an “independent perspective” on the issues in the case. Opp. 2. That objection is just another way of saying that CLIA shouldn’t be able to file an amicus brief because its and its members’ interests are aligned with Defendants-Appellants’. But that is often the case – as then-Judge Alito noted, “corporations, unions, trade and professional associations, and other parties with ‘pecuniary’ interests appear regularly as amici” before the courts of appeals and the Supreme Court. *Neonatology Assocs.*, 293 F.3d at 131-32; *see also Prairie Rivers Network*, 976 F.3d at 763 (“To be sure, the fiction that an *amicus* acts as a neutral information broker, and not an advocate, is long gone.”). Indeed, the Federal Rules of Appellate Procedure *require* proposed amici to declare their “interest” in the case. Fed. R. App. P. 29(a)(3)(A). As to the composition of CLIA’s executive board, the Court should not endorse Havana Docks’ attempt to use the fact that it has sued four of the six members of CLIA’s board as a reason to exclude the trade group that speaks for the entire industry.

Third, Havana Docks incorrectly asserts that CLIA’s brief is duplicative of amicus curiae briefs filed by the U.S. Travel Association and a former official from the Office of Foreign Assets Control. Opp. 4. Neither of those

briefs provides the perspective of the cruise industry in particular – a focus of CLIA’s proposed brief. Nor do those briefs discuss the broader context of travel to Cuba between 2015 and 2017 to situate the cruise industry’s operations in the broader setting of the overall travel industry. CLIA’s brief highlights factual and historical nuance and explains the broader commercial context of this dispute. *See Prairie Rivers Network*, 976 F.3d at 763.

Finally, Havana Docks relies on the district court’s denial of leave to file to urge the same result before this Court. Opp. 5. But the district court denied leave for reasons that do not apply here. For one thing, CLIA’s proposed brief before this Court discusses different issues than the brief CLIA proposed filing before the district court. CLIA’s proposed district court brief discussed the constitutional problems with Havana Docks’ interpretation of the LIBERTAD Act. *See* Dkt. No. 313-1, *Havana Docks Corp. v. Carnival Corp.*, No. 1:19-CV-21724-BB (S.D. Fla. Sept. 17, 2021). The district court denied leave on the grounds that the Defendants-Appellants had already addressed those constitutional issues in their summary judgment briefs. *See* Dkt. No. 358, at 2-3, *Havana Docks Corp.* (Oct. 15, 2021). Here, in contrast, CLIA’s proposed brief brings to the Court’s attention factual and historical context that no party or other amicus brief has raised. Moreover, CLIA’s interests in this

appeal are even stronger than its interests before the district court, because any decision from this Court will be binding on CLIA's members throughout the Circuit. Given these stakes, there are good reasons for the Court to allow CLIA's voice to be heard.

Dated: July 18, 2023

Respectfully submitted,

/s/ Shay Dvoretzky

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CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(g), I hereby certify that this corrected brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 29(b)(4) because, as calculated by Microsoft Word, it contains 923 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f). I also certify that this brief complies with the typeface and type-style requirements of Federal Rule of Appellate Procedure 32(a)(5) and (a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word in a 14-point Book Antiqua font.

Dated: July 18, 2023

/s/ Shay Dvoretzky
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CERTIFICATE OF SERVICE

I hereby certify that on July 18, 2023, I electronically filed this brief with the Clerk of the Court for the United States Court of Appeals for the Eleventh Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

Dated: July 18, 2023

Respectfully submitted,

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