

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO: _____

ELISA VIOLETA ARCHIBOLD,

Plaintiff,

vs.

AZAMARA CLUB CRUISES and
CELEBRITY CRUISES, INC.

Defendant.

_____/

NOTICE OF REMOVAL

Defendant, AZAMARA CLUB CRUISES and CELEBRITY CRUISES, INC., ("Defendant"), by and through its undersigned counsel, hereby files this, its Notice of Removal, pursuant to 28 U.S.C. §1441, et seq., and 9 U.S.C. §202, et seq., and respectfully states as follows:

1. This is an action by ELISA VIOLETA ARCHIBOLD ("Plaintiff"), a seaman from Panama and former employee of Defendant, who alleges she suffered an injury during the course of her employment aboard the cruise ship *Quest*.

2. At all times material to Plaintiff's Complaint, the terms of Plaintiff's employment were governed by a Sign on Employment Agreement ("SOEA") between the parties. A copy of the applicable SOEA is attached hereto as *Exhibit "A."*

3. The SOEA incorporates a Collective Bargaining Agreement ("CBA"), attached hereto as *Exhibit "B."*

4. The CBA at Article 33, provides, in pertinent part, as follows:

...all grievances including those referenced in Article 28 , and any other dispute whatsoever, whether in contract, regulatory, tort, or otherwise ... shall be referred to an resolved exclusively by binding arbitration pursuant to the United Nations Conventions on Recognition and Enforcement of Foreign Arbitral Awards (New York 1958), 21 U.S.T. 2517, 300 UN.T.S.

5. By signing the SOEA, Plaintiff acknowledged and agreed to be bound by its terms and conditions including those incorporated by referenced within the CBA.

6. The SOEA and incorporated CBA constitute an arbitration agreement falling under the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the "Convention").

7. 9 U.S.C. §205 states:

Where the subject matter on an action or proceeding pending in a State court relates to an arbitration agreement or award falling under the Convention, the defendant or the defendants may, at any time before the trial thereof, remove such action or proceedings to the district court of the United States for the district and division embracing the place where the action or proceeding is pending.

8. Accordingly this suit is an action over which the United States District Court has original jurisdiction under the provisions of 9 U.S.C. § 202 et. seq., and one that may be removed to federal court under the provisions of 9 U.S.C. § 205, in that it is an action arising under the laws of the United States and relating to an arbitration agreement falling under the Convention.

9. On or about April 15, 2011, Plaintiff served RCCL with a Complaint in state court in the Eleventh Circuit of Miami-Dade County, Florida, *ELISA VIOLETA ARCHIBOLD v. AZAMARA CLUB CRUISES and CELEBRITY CRUISES, INC.*, Case No. 11-10119-CA-20. A copy of the Complaint and all other pleadings, process, and orders in this case are attached hereto as *Exhibit "C,"* pursuant to 28 U.S.C. §1446(a).

10. This suit is an action of which this court has original jurisdiction under the provision of 9 U.S.C. § 202 et. seq., and one that may be removed to this court under the provisions of 9 U.S.C. § 205, in that it is an action arising under the laws of the United States and relating to an arbitration agreement falling under the Convention. The grounds for removal are as follows:

a) There has been no trial of the state court action.

b) ELISA VIOLETA ARCHIBOLD is a seaman from Panama. Defendant is a foreign corporation, and the

QUEST is a vessel registered in Marjuro, Marshal Islands.

c) The underlying SOEA and CBA requires arbitration in countries which are signatory to the Convention. Defendant stipulates to the application of United States law in arbitration. Moreover, Defendant stipulates the arbitration shall proceed in Miami, Florida where Plaintiff's attorney is located and the venue in which Plaintiff filed her original action.

d) Because the Agreement is between a foreign corporation and a foreign seaman and because the Agreement provides for arbitration, this dispute falls under the provisions of the Convention. See 9 U.S.C. §202 et. seq.

11. Accordingly, this court has jurisdiction over this action, and this case is removed to the United States District Court, Southern District of Florida pursuant to U.S.C. § 205.

12. Defendant files and presents herewith the sum of \$350.00 as required by 28 U.S.C. §1446.

WHEREFORE, Defendant, AZAMARA CLUB CRUISES and CELEBRITY CRUISES, INC., moves this court for an order that the action now pending against it in the Eleventh Judicial Circuit, in and for Miami-Dade County, described above, be removed to this Court and proceed therein.

Dated: May 31, 2011

Respectfully submitted,

AZAMARA CLUB CRUISES and
CELEBRITY CRUISES, INC..
1050 Caribbean Way
Miami, Florida 33132
(305) 539-6000 Tel.
(305) 539-8101 Fax

By: /s/ RANDY S. GINSBERG
RANDY S. GINSBERG
Fla. Bar No.: 185485

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via regular mail on May 31, 2011 to: Brett Rivkind, Esq., RIVKIND PEDRAZA & MARGULIES, P.A., Concord Building, Suite 600, 66 West Flagler Street, Miami, Fl 33130

AZAMARA CLUB CRUISES and
CELEBRITY CRUISES, INC..
1050 Caribbean Way
Miami, Florida 33132
(305) 539-6000 Tel.
(305) 539-8101 Fax

By: /s/ RANDY S. GINSBERG
RANDY S. GINSBERG
Fla. Bar No.: 185485