

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI-DADE DIVISION

CASE NO.: _____ CIV - _____

MAGISTRATE JUDGE - _____

SIMONE LAZARUS,

Plaintiff,

v.

PRINCESS CRUISE LINES, LTD. (CORP),

Defendant.

_____ /

DEFENDANTS' NOTICE OF REMOVAL OF CIVIL ACTION
PURSUANT TO RULE 9 U.S.C. § 205 AND 28 U.S.C. §1441

Defendant, Princess Cruise Lines, Ltd. ("Princess"), for the purpose of removing this cause from the Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida, to the United States District Court of the Southern District of Florida, with full reservation of rights, exceptions and defenses, respectfully represents:

1. Plaintiff, Simone Lazarus ("Plaintiff"), is a citizen of South Africa. A copy of Plaintiff's Visa reflecting nationality is attached hereto as Exhibit "1".

2. Princess is a Bermuda corporation with its principal place of business and base of operations located in Santa Clarita, California. The vessel on which Plaintiff was a crew member, the *Ruby Princess* is a cruise ship registered and flagged in Bermuda at the time of Plaintiff's purported injury.

3. On August 16, 2008, Plaintiff entered into an individual contract of employment with Princess that contains an arbitration clause. A copy of that agreement is attached hereto as

Exhibit “2”. By executing an Acceptance of the Principal Term of Employment, Plaintiff is governed by the terms and conditions contained within “Princess Cruises Principal Terms of Employment Princess Cruise Lines, Ltd.” A copy of the Principal Terms and Conditions of Employment is attached hereto as Exhibit “3”. Article 14 of the Terms and Conditions is entitled “Governing Law, Arbitration and Venue” and states as follows:

THE COMPANY AND THE CREW MEMBER AGREE THAT ANY AND ALL DISPUTES, CLAIMS, OR CONTROVERSIES WHATSOEVER (WHETHER IN CONTRACT, REGULATORY, TORT OR OTHERWISE AND WHETHER PRE-EXISTING, PRESENT OR FUTURE AND INCLUDING CONSTITUTIONAL, STATUTORY, COMMON LAW, ADMIRALTY, INTENTIONAL TORT AND EQUITABLE CLAIMS) RELATING TO OR IN ANY WAY ARISING OUT OF OR CONNECTED WITH THE CREW AGREEMENT, THESE TERMS, OR SERVICES PERFORMED FOR THE COMPANY, INCLUDING BUT NOT LIMITED TO WAGE AND BENEFIT MATTERS, EMPLOYMENT APPLICATIONS, WRONGFUL TERMINATION OR DISCRIMINATION CLAIMS, PROPERTY LOSS OR DAMAGE, PERSONAL INJURY, DEATH OR ANY OTHER CLAIM, NO MATTER HOW DESCRIBED, PLEADED OR STYLED (COLLECTIVELY “DISPUTES”), BETWEEN THE CREW MEMBER AND THE COMPANY OR OTHERS, INCLUDING AGAINST THE MASTER, SHIPOWNER, VESSEL, VESSEL OPERATOR, CHARTERER, OR ANY OTHER THIRD PARTY, INCLUDING ALSO, BUT NOT LIMITED TO, PRINCESS CRUISES, P&O CRUISES AUSTRALIA, AND CUNARD LINE, SHALL BE REFERRED TO AND RESOLVED EXCLUSIVELY BY BINDING ARBITRATION PURSUANT TO THE UNITED NATIONS CONVENTION ON THE RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS (NEW YORK 1958), 21 U.S.T. 2517, 330 U.N.T.S 3 1970 U.S.T. LEXIS 115 (“THE CONVENTION”), IN HAMILTON BERMUDA, TO THE EXCLUSION OF ANY OTHER FORA, IN ACCORDANCE WITH THE BERMUDA INTERNATIONAL CONCILIATION AND ARBITRATION ACT 1993 AND THE UNCITRAL ARBITRAL RULES AS AT PRESENT IN FORCE, ALL OF WHICH ARE DEEMED TO BE INCORPORATED HEREIN BY REFERENCE INTO THIS PROVISION.

See Exhibit “3”.

4. Plaintiff alleges that in March 2009, she suffered problems with her vision while working aboard the *Ruby Princess*. She also alleges the medical staff failed to timely and adequately treat her condition. On or about July 1, 2011, Plaintiff filed suit in the Circuit Court

for the 11th Judicial Circuit in and for Miami-Dade County, Florida. The action was originally entitled *Simone Lazarus v. Princess Cruise Lines, Ltd.* (CORP), case number 11-20566 CA 31. Plaintiff alleged Jones Act Negligence, Unseaworthiness, Failure to Provide Maintenance and Cure, Failure to Treat, and Wages and Penalties – 46 USC 10313.

5. Plaintiff's claim is one arising out of her employment. Pursuant to the terms and conditions of Plaintiff's employment contract, the parties are mandated to submit the dispute to arbitration in Bermuda. Accordingly, both at the time the suit was instituted and at the time of the present removal, this dispute is subject to mandatory arbitration in Bermuda.

6. The foreign arbitration mandated between Plaintiff and Princess is subject to the provisions of The Convention of the Recognition and Enforcement of Foreign Arbitral Awards on June 10, 1958 (hereinafter the "Convention"), and therefore the Convention and its enabling legislation are controlling pursuant to 9 U.S.C. §201 *et seq.*

7. Both the United States and South Africa are signatories to the Convention.

8. Accordingly, this Court has subject matter jurisdiction by virtue of 28 U.S.C. §1331, 28 U.S.C. §1333, and 9 U.S.C. §202 *et al.*

9. This Court has removal jurisdiction pursuant to 9 U.S.C. §202 *et al.* and, to the extent applicable, 28 U.S.C. §1441. *See* 9 U.S.C. § 205 ("Where the subject matter of an action ... pending in a State court relates to an arbitration agreement ... under the Convention, the defendant ... may ... remove such action...."); *see also* *Bautista v. Star Cruises*, 396 F.3d 1289, 1292-93 (11th Cir. 2005)(affirming removal under the Convention and compelling arbitration); *Sorica v. Princess Cruise Lines, Ltd.*, 2009 U.S. Dist. LEXIS 127433, at *4-6 (S.D. Fla. Aug. 4, 2009)(same).

10. Princess' Notice of Removal is timely and properly filed pursuant to 9 U.S.C. §202 – §205 which allows removal at any time before trial of such claims.

11. Upon filing of this Notice of Removal, Princess will promptly give written notice thereof to Plaintiff, through her attorneys of record, and the Clerk of the Circuit Court for the 11th Judicial Circuit in and for Miami-Dade County, Florida. *See* Notice filed with the State Court attached hereto as Exhibit "4".

WHEREFORE, Defendant, Princess Cruise Lines, Ltd., respectfully moves that the Notice of Removal be accepted as good and sufficient as required by law, and that the aforesaid action, case number 11-20566 CA 31 on the docket of the Court for the 11th Judicial Circuit in and for Miami-Dade County, Florida, be removed from that Court to the United State District Court for the Southern District of Florida, and that this Court assume full and complete jurisdiction thereof and issue all necessary orders and grant all general equitable relief to which Princess Cruise Lines, Ltd. is entitled.

Respectfully submitted,

MALTZMAN & PARTNERS, P.A.

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BY: /s/ Steve Holman
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STEVE HOLMAN
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been sent via facsimile and First Class U.S. mail to: **Tonya J. Meister, Esq.** MEISTER LAW, LLC, Courthouse Tower, Suite 750, 44 West Flagler Street, Miami, FL 33130 on this 26th day of July 2011.

MALTZMAN & PARTNERS, P.A.

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