

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 09-20581-CIV-Ungaro/Simonton

AT LAW AND IN ADMIRALTY

GLENN FOJTASEK, as husband and
Personal Representative of the ESTATE OF
BARBARA FOJTASEK, deceased,

Plaintiff,

vs.

NCL (BAHAMAS) LTD., A BERMUDA COMPANY d/b/a
NCL and/or NCL AMERICA,

Defendant.

**DEFENDANT'S UNOPPOSED MOTION FOR ENLARGEMENT OF TIME
TO ADD THIRD PARTIES**

Defendant, NCL (BAHAMAS) LTD., A BERMUDA COMPANY d/b/a NCL and/or
NCL AMERICA, by and through undersigned counsel, and pursuant to Federal Rules of Civil
Procedure 6(b) and 14(a) and the Local Rules of the Southern District of Florida, hereby files its
Unopposed Motion for Enlargement of Time to Add Third Parties and, in support thereof, states
as follows:

BACKGROUND FACTS & INCORPORATED MEMORANDUM OF LAW

1. Federal Rule of Civil Procedure 14(a)(1) provides as follows:

(a) When a Defending Party May Bring in a Third Party. (1) *Timing of the Summons and Complaint.* A defending party may, as third-party plaintiff, serve a summons and complaint on a nonparty who is or may be liable to it for all or part of the claim against it. ***But the third-party plaintiff must, by motion, obtain the court's leave if it files the third-party complaint more than 10 days after serving its original answer.***

FED.R.CIV.P. 14(a)(2009)(emphasis added). Thus, pursuant to the Rule, the Defendant is permitted to file a third-party complaint ten (10) days after serving its original answer in the case. As of the date of filing this Motion, the Defendant has not served an answer to Plaintiff's First Amended Complaint.¹

2. Pursuant to this Court's Scheduling Order, the deadline to add third-parties is Friday, July 10, 2009. [D.E. # 20] The Scheduling Order further provides as follows:

The time schedule contained in this order may not be modified absent prior order of the Court...To the extent this Order conflicts with the Local Rules, this order supersedes them.

Id.

3. At this juncture, Defendant does not have sufficient information to determine whether it should or will add one or more third-party defendants. Defendant, however, believes that there may be at least one non-party who is or may be liable to it for all or part of the Plaintiff's claims against it. Defendant requires additional time to adequately assess such potential liability.

4. Based upon the above, Defendant respectfully requests that the Court extend the current deadline to add parties to no later than seven (7) days after Defendant has served its answer to Plaintiff's First Amended Complaint.

5. This motion is made in good faith and not for purposes of undue delay.

6. Pursuant to Fed.R.Civ.P. 6(b), Defendant respectfully submits that there is good cause for the Court to grant the requested enlargement of time and that there is no prejudice given the current trial setting of February 2010.

¹ On June 24, 2009, Defendant filed its Motion to Dismiss Plaintiff's First Amended Complaint. [D.E. # 34] On July 2, 2009, Plaintiff filed his Response to Defendant's Motion to Dismiss. [D.E. # 36] Defendant will be filing its Reply in Support of its Motion to Dismiss on July 13, 2009 (the deadline to file a Reply).

WHEREFORE, Defendant respectfully requests that this Honorable Court grant Defendant's Motion and enter the attached Order extending the current deadline to add third-parties to no later than seven (7) days after Defendant has served its answer to Plaintiff's First Amended Complaint.

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(3)

Undersigned counsel hereby certifies that they have conferred with opposing counsel who has no objection to the relief sought in the instant Motion.

Dated: July 10, 2009
Miami, Florida

Respectfully submitted,

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Attorneys for Defendant

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on July 10, 2009, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to electronically receive Notices of Electronic Filing.

BY: /s/Karina M. Cerda Collazo, Esq.
Karina M. Cerda Collazo, Esq.

SERVICE LIST

CASE NO. 09-20581-CIV-Judge: Ungaro/Magistrate Judge: Simonton

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