

No. 21-12243

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

STATE OF FLORIDA,
Plaintiff-Appellee,

v.

XAVIER BECERRA, SECRETARY OF HEALTH AND HUMAN
SERVICES, *et al.*,
Defendants-Appellants.

On Appeal from the United States District Court
for the Middle District of Florida (Hon. Steven D. Merryday)
No. 8:21-cv-839-SDM-AAS

**MOTION OF NCLH
FOR LEAVE TO FILE AN *AMICI CURIAE* BRIEF IN SUPPORT OF
APPELLANTS' MOTION FOR STAY PENDING APPEAL**

John F. O'Sullivan
Olga Vieira
QUINN EMANUEL URQUHART &
SULLIVAN
2601 South Bayshore Drive
15th Floor
Miami, FL 33133

Derek L. Shaffer
Jonathan G. Cooper
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
1300 I Street NW, Suite 900
Washington, D.C. 20005
(202) 538-8000

*Counsel for Norwegian Cruise Line Holdings, Ltd., Norwegian Cruise Line,
Oceania Cruises, and Regent Seven Seas Cruises*

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

Under Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rules 26.1-1 through 26.1-3, undersigned counsel hereby certifies that in addition to those persons and entities contained in the certificate of interested persons and corporate disclosure statement in Appellants' motion to stay pending appeal and the same certificate in Appellees' response, the following persons and entities have an interest in the outcome of this appeal:

Cooper, Jonathan, G.

Oceania Cruises S. De R.L., d/b/a Oceania Cruises

NCL (Bahamas) Ltd., d/b/a Norwegian Cruise Line

Norwegian Cruise Line Holdings Ltd ("NCLH")

O'Sullivan, John F.

Quinn Emanuel Urquhart & Sullivan, LLP

Seven Seas Cruises S. De R.L., d/b/a Regent Seven Seas Cruises

Shaffer, Derek L.

Vieira, Olga

Amici Norwegian Cruise Line Holdings Ltd., a Bermuda company; NCL (Bahamas) Ltd., d/b/a Norwegian Cruise Line ("NCLB"), a Bermuda company; Oceania Cruises S. De R.L., d/b/a Oceania Cruises ("Oceania"), a Panama limited liability company; and Seven Seas Cruises S. De R.L., d/b/a Regent Seven Seas

Cruises (“Regent Seven Seas”), a Panama limited liability company, file the following corporate disclosure statement:

1. Norwegian Cruise Line Holdings Ltd. is publicly traded on the New York Stock Exchange under ticker symbol “NCLH.” There are no parent corporations or publicly-held corporations that hold ten percent or more of Norwegian Cruise Line Holdings Ltd.’s stock.
2. NCLB is a wholly-owned subsidiary of NCL International, Ltd., a Bermuda company, which in turn is a wholly-owned subsidiary of Arrasas Limited, an Isle of Man company, which in turn is a wholly-owned subsidiary of NCL Corporation Ltd. (“NCLC”), a Bermuda company, which in turn is a wholly-owned subsidiary of Norwegian Cruise Line Holdings Ltd.
3. Oceania Cruises is a subsidiary of Prestige Cruise Holdings S. de R.L. (99.99%) (“Prestige Cruises Holdings”), and Prestige Cruises International S. de R.L. (0.01%) (“Prestige Cruises International”), each a Panama limited liability company. Prestige Cruise Holdings is a subsidiary of Prestige Cruises International (99.99%) and NCLC (0.01%). Prestige Cruises International is a subsidiary of NCLC (99.99%) and Norwegian Cruise Line Holdings Ltd. (0.01%). NCLC is a wholly-owned subsidiary of Norwegian Cruise Line Holdings Ltd.

4. Regent Seven Seas is a subsidiary of Classic Cruises, LLC, a Delaware limited liability company (“Classic Cruises”) and Classic Cruises II, LLC, a Delaware limited liability company (“Classic Cruises II”), each of which hold a 50% interest in Regent Seven Seas. Classic Cruises and Classic Cruises II are in turn wholly-owned subsidiaries of Prestige Cruise Holdings. Prestige Cruise Holdings is a subsidiary of Prestige Cruises International (99.99%) and NCLC (0.01%). Prestige Cruises International is a subsidiary of NCLC (99.99%) and Norwegian Cruise Line Holdings Ltd. (0.01%). NCLC is a wholly-owned subsidiary of Norwegian Cruise Line Holdings Ltd.

/s/ Derek L. Shaffer
Derek L. Shaffer

Norwegian Cruise Line Holdings Ltd., NCL (Bahamas) Ltd., d/b/a Norwegian Cruise Line, Oceania Cruises S. De R.L., d/b/a Oceania Cruises, and Seven Seas Cruises S. De R.L., d/b/a Regent Seven Seas Cruises (together, “NCLH”) respectfully seek leave to file the attached short *amici curiae* brief in support of Appellants’ motion for stay pending appeal.

NCLH has an interest in this appeal because the Centers for Disease Control and Prevention’s “Framework for Conditional Sailing and Initial Phase COVID-19 Testing Requirements for Protection of Crew” (“Conditional Sailing Order”), 85 Fed. Reg. 70153-01 (Nov. 4, 2020), and related regulations (enjoined below as to Florida) directly impact NCLH’s cruise ship business. The proposed brief may be especially helpful to the Court insomuch as it presents the current views of a leading member of the very industry—the cruise line industry—whose perspectives and interests are being invoked by the parties.

To summarize NCLH’s views (which are more fully described in the brief) NCLH supports the Conditional Sailing Order and is committed to comply fully with it. What is more, NCHL is planning imminently to resume passenger cruise operations under auspices of the Conditional Sailing Order. Ironically, the only impediment to NCLH safely sailing as planned is currently posed by Florida, *not* CDC. While CDC rightly makes passengers’ vaccination status a touchstone of the federal regulations (consistent with expert recommendations, science, and the best

interests of all concerned), Florida is *prohibiting* NCLH and other cruise lines from requiring that passengers simply provide documentation confirming that they have been fully vaccinated against COVID-19. Because NCLH is, as of today, seeking preliminary relief against Florida's prohibition in the U.S. District Court for the Southern District of Florida, *Norwegian Cruise Line Holdings Ltd. v. Rivkees*, S.D. Fla. No. 1:21-cv-22492-KMW (filed July 13, 2021), and because Florida may, absent a stay, try to rely upon the preliminary injunction below to defend its prohibition (on the theory that conflicting federal regulations are inoperative), NCLH brings an important and unique perspective to the stay request now pending before this Court.

For these reasons, NCLH respectfully requests that the Court grant leave to file the attached *amici* brief in support of Appellants' motion to stay pending appeal. Having conferred with counsel for the parties, NCLH is able to report that CDC consents to the instant motion while the State's position is that it has "no objection to *amicus* participating in the underlying appeal. But because *amicus*'s request to brief the stay comes the morning after Florida filed its response in accordance with the Court's deadline for filing a response to the time-sensitive motion, we oppose *amicus*'s request to participate at this juncture, unless the Court gives Florida the opportunity to respond to the filing." NCLH obviously would neither oppose nor respond to any such response by the State.

Dated: July 13, 2021

Respectfully submitted,

QUINN EMANUEL URQUHART &
SULLIVAN LLP

s/ Derek L. Shaffer

John F. O'Sullivan
Olga Vieira
QUINN EMANUEL URQUHART &
SULLIVAN
2601 South Bayshore Drive
15th Floor
Miami, FL 33133

Derek L. Shaffer
Jonathan G. Cooper
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
1300 I Street NW, Suite 900
Washington, D.C. 20005
(202) 538-8000

*Counsel for Norwegian Cruise Line Holdings, Ltd., Norwegian Cruise Line,
Oceania Cruises, and Regent Seven Seas Cruises*

CERTIFICATE OF COMPLIANCE

In accordance with Federal Rules of Appellate Procedure 27(d)(1)(E), 27(d)(2)(A), and 32(g)(1), I certify that the foregoing motion is proportionately spaced using 14-point Times New Roman font and contains 466 words, excluding the parts of the motion exempted from length limits by Rules 27(d)(2) and 32(f).

/s/ Derek L. Shaffer
Derek L. Shaffer

CERTIFICATE OF SERVICE

I hereby certify that, on July 13, 2021, I electronically filed the foregoing motion with the Clerk of the Court for the U.S. Court of Appeals for the Eleventh Circuit by using the appellate CM/ECF system. I further certify that all participants in the case are registered CM/ECF users and will be served by the appellate CM/ECF system.

/s/ Derek L. Shaffer
Derek L. Shaffer