

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

In re:

COMPLEX BUSINESS LITIGATION
DIVISION

CRYSTAL CRUISES LLC, a California
limited liability company,

Case No. 2022-002742-CA-01
Lead Case

CRYSTAL HOLDINGS U.S., LLC, a
Delaware limited liability company,

Case No. 2022-002757-CA-01

CRYSTAL AIRCRUISES, LLC, a Florida
limited liability company, and

Case No. 2022-002758-CA-01

Assignors,
To:

(Jointly Administered Cases)

MARK C. HEALY,

Assignee.
_____ /

ASSIGNEE'S OBJECTION TO CLAIM OF EVELYN FERNANDEZ

NOTICE OF OPPORTUNITY TO OBJECT AND REQUEST FOR HEARING

PLEASE TAKE NOTICE that, Pursuant to section 727.111(4), Florida Statutes, the assignee may disallow improper claims of creditors, and the Court may consider these actions without further notice or hearing unless a party in interest files an objection within 21 days from the date this paper is served. If you object to the relief requested in this paper, you must file your objection with the Clerk of the Court of Miami-Dade County at 73 W. Flagler Street, Room 133, Miami, FL 33130, and serve a copy on the assignee's attorney, Paul N. Mascia, Esq., Nardella & Nardella, PLLC, 135 W. Central Blvd., Ste. 300, Orlando, FL 32801, and any other appropriate person.

If you file and serve an objection within the time permitted, the Court shall schedule a hearing and notify you of the scheduled hearing.

If you do not file an objection within the time permitted, the assignee and the Court will presume that you do not oppose the granting of the relief requested in the paper.

COMES NOW Mark C. Healy, Assignee in the above-captioned Assignment proceeding (the “Assignee”), pursuant to Section 727.113 and 727.109(4), files this Objection to Claim of Evelyn Fernandez (“Fernandez” or “Claimant”), and asserts as follows:

BACKGROUND

1. On February 10, 2022, the Crystal Cruises, LLC (the “Assignor”) executed and delivered, and the Assignee accepted, an irrevocable Assignment for the benefit of creditors to the Assignee (the “Assignment”). On February 11, 2022, a *Petition Commencing Assignment for the Benefit of Creditors* was filed by the Assignee for the Assignor, thereby commencing the following assignment for the benefit of creditors case pursuant to Chapter 727 of the Florida Statutes, in this Court: *In re Crystal Cruises LLC*, Case No. 2022-002742-CA-01 (the “Assignment Case”).

2. Prior to the Assignment, Assignor engaged in the business of travel and entertainment business, including operating ocean, river, and expedition cruises and conducting related activities around the world (the “Business”). The Business operated at premises located the fifth floor of the building located at 1501 Biscayne Blvd., Miami FL 33132, which was leased to the Assignor by Resorts World Omni, LLC.

3. The Assignee's address and telephone number are c/o Paul N. Mascia, Esq., Nardella & Nardella, PLLC, 135 W. Central Boulevard, Orlando, Florida 32801 and (407) 966-2680.

4. Pursuant to § 727.112, *Florida Statutes*, all proofs of claims shall be filed by delivering the claims to the Assignee within 120 days from the filing of the Assignment.

5. In this case, all claims were due by June 11, 2022 (the “Bar Date”).

6. Fernandez delivered her claim to the assignee on June 11, 2022, via email (the “Claim”), a true and correct copy of which Claim is attached hereto as **Exhibit “A”**.

7. The Assignee has reviewed the Claim and has determined that it should be disallowed.

8. At any time before the entry of an order approving the Assignee's final report, the Assignee may file its objection to the Claim. *See* § 727.113(1), *Florida Statutes*. The Assignee's final report has not yet been filed in this case and his objection to the Claim is therefore timely made.

9. This Honorable Court has the power to allow or disallow claims against the estate and determine their priority. *See* § 727.109(4), *Florida Statutes*.

10. In addition to disputing the allegations of the Claim, the Assignee asserts that the Claim should be disallowed on numerous bases, including without limitation, the doctrine of *res judicata*, the Claimant's failure to state a claim upon which relief can be granted, the Claimant's failure to state the nature of the claim pursuant to Fla. Stat. § 727.112, *Florida Statutes*, the Claimant's failure to follow the formal requirements of § 727.112, *Florida Statutes*, and the lapse of the statute of limitations applicable to the Claim.

Objection to Fernandez's Claim

11. Fernandez asserts the following purported causes of action in the Claim, both of which are barred by *res judicata*: (i) "Salaries as Senior Accountant from 2017 until 2022, \$80,000 per year * 5 years = \$ 400,000.00"; and (ii) "Breach of Employment Contract \$500,000.00" (together the "Employment Related Claims")

12. The Employment Related Claims are barred on the principles of *res judicata*, as they have previously been adjudicated in on the Employment Related Claims in favor of the Assignor in that certain case entitled *Fernandez v. Crystal Cruises, LLC*, Case No. 1:19cv22886 in the United State District Court in and for the Southern District of Florida (the "Federal Case").

A true and correct copy of the Final Judgment rendered in favor of the Assignor in the Federal Case, dated April 7, 2021, is attached hereto as **Exhibit “B”**.

13. Fernandez alleged in the Federal Case unpaid wages and damages under the Equal Pay Act of 1963, 29 U.S.C. § 206, et seq., age discrimination based on the Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 and the Florida Civil Rights Act of 1992 chapter 760 and national origin discrimination based on violation of Title VII and the Florida Civil Rights Act. These claims alleged by Fernandez in Federal Case center on alleged discriminatory treatment by Lisa Wilson, a former officer of the Assignor, and are the same as those Fernandez brings in the Claim. Fernandez seeks damages of \$400,000 in the Claim for these Employment Related Claims.

14. Additionally, Fernandez attempts to relitigate a breach of employment agreement claim that was adversely determined against her in the Federal Case. In the Claim, Fernandez alleges that she “was unfairly fired without warnings, without following any formal procedures to finish her employment contract at sixty (60) years old.” Fernandez seeks damages in the amount of \$500,000 for this Employment Compensation Claim.

15. The foregoing Employment Related Claims are barred from being litigated in this Assignment Case by the principle of *res judicata*. When a final judgment is rendered by a federal court, the federal principles of claim preclusion (i.e. *res judicata*) apply in subsequent state court actions. *See, Stoll v. Gottlieb*, 305 U.S. 165, 171, 59 S. Ct. 134, 137 (1938) (state courts are obligated to recognize federal judgments under the Full Faith and Credit Clause and 28 U.S.C. § 1738).

16. Because this case involves a prior federal court judgment, federal claim preclusion rules apply. *See Dalbon v. Women's Specialty Retailing Grp.*, 674 So. 2d 799, 801 (Fla. 4th DCA 1996) (“Because this case involves a prior federal court judgment, we apply federal claim

preclusion principles”). Here, the four elements of claim preclusion are met, namely, (1) the prior decision was rendered by a court of competent jurisdiction, namely, the United States District Court for the Southern District of Florida; (2) there was a final judgment on the merits, entered on April 7, 2021; (3) the parties were identical in both suits as Assignee is a successor in interest to the Assignor, and the Federal Action was brought previously by Fernandez against the Assignor; and (4) the prior and present causes of action are the same, which is set forth above.

17. Alternatively, in the event that Fernandez’s Employment Related Claims are for any reason not barred by *res judicata*, her wage claim is limited to wages for one year’s employment following the date on which Fernandez was terminated. *See* § 727.112(7)(a), *Florida Statutes*.

18. Fernandez brings other factually and legally baseless claims in the Claim. First, Fernandez claims damages in the amount of \$3,000.000.00 (sic) on the following grounds: “Sexual Harassment and exposed to the HIV+/AIDS by Lyall Duncan, former V.P. Legal and General Counselor” (the “Harassment Claim”).

19. As a basis for the Harassment Claim, Fernandez alleges that “Lyall Duncan, performing as V.P. Legal and General Counsellor during Plaintiff’s tenure at Crystal Cruises. . . put [Fernandez’s] life in jeopardy since his aggressive sexual harassment against Plaintiff caused the furious hating and terrible jealousy from the transgender people carrying HIV+/AIDS working in the Sales and Marketing department at Crystal Cruises. . .”

20. Fernandez goes on to allege the following: “I should say that most gays that used to work at Crystal Cruises were illegal immigrants responsible for the spreading of the terrible sickness of HIV/AIDS. They usually used to induce homosexual performances in their male coworkers, and Lyall Duncan, former V.P Legal and General Counselor, were one of them.”

21. Fernandez has failed to state a claim for sexual harassment and does not make any cognizable claim for “exposure to HIV.” In order to establish a claim of sexual harassment in a work environment, Federal courts hold that the plaintiff must allege the following five elements: (1) that the employee belongs to a protected group; (2) that the employee was subjected to unwelcome harassment; (3) that the harassment was based on the employee’s gender; (4) that the harassment was severe enough to affect a term, condition, or privilege of employment and to create a discriminatorily abusive working environment; and (5) that the employer knew or should have known of the harassment and failed to intervene. *See Russell v. KSL Hotel Corp.*, 887 So. 2d 372, 377 (Fla. 3d DCA 2004), *citing Miller v. Kenworth of Dothan, Inc.*, 277 F.3d 1269, 1275 (11th Cir. 2002)); *see also Succar v. Dade County School Board*, 229 F.3d 1343, 1344-45 (11th Cir. 2000).

22. Fernandez has failed to sufficiently allege any of the requisite elements of a sexual harassment claim. As such, she has failed to state a claim upon which relief can be granted and has failed to adequately state the nature of her claim as required by § 727.112(3), *Florida Statutes*.

23. Fernandez also alleges in the Claim that she has incurred \$5,000,000 in damages for “[w]orking in a criminal organization and been (sic) exposed to the weapons, drugs, nuclear, toxic stored in Crystal Cruises’ premises”. As support for this claim, Fernandez states along with other similar allegations that “the transgender above-mentioned could be the liaison in the delivery and transiting of the toxic merchandise.” Again, Fernandez fails to cite any statute or other cogent cause of action under which relief can be granted based on her allegations. Furthermore, these claims are made by Fernandez without any supporting factual allegations. As such, Fernandez has again failed to state a claim upon which relief can be granted and has failed to adequately state the nature of her claim as required by § 727.112(3), *Florida Statutes*.

24. Further, the Claim fails to conform to the statutory requirements for proofs of claims by failing to include her address with her claim, as required by § 727.112(3), *Florida Statutes*. As such, the Claim should be barred on these additional grounds.

25. Fernandez also fails to provide time-frames sufficient to deduce when her alleged causes of actions accrued. The Assignee therefor objects to the Claim on the basis that the applicable statute of limitations for her various claims has expired.

26. The Claim is rife with other legally and factually baseless allegations that fail to state a cogent cause of action. As such, insofar as Fernandez attempts to litigate any other cause of action not addressed in this Objection which she bases on any other allegations set forth in her Claim, the Assignee objects for failure to state a claim upon which relief can be granted and for failure to state the nature of the claim as required by § 727.112(3), *Florida Statutes*.

WHEREFORE, the Assignee respectfully requests the Court enter on order sustaining his Objection to Fernandez's Claim and grant such further relief that it may deem just and proper.

DATED this 23rd day of March 2023.

NARDELLA & NARDELLA, PLLC
Co-General Counsel for Assignee
135 W. Central Blvd., Ste. 300
Orlando, FL 32801
(407) 966-2680

By: /s/ Paul N. Mascia

Michael A. Nardella, Esq.

Florida Bar No. 051265

Paul N. Mascia, Esq.

Florida Bar No. 0489670

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via the Florida Court's e-Filing Portal on March 23, 2023, which will serve upon all parties and interested persons of record in this action; on claimant Evelyn Fernandez via email at anavef@yahoo.com and U.S. mail to 2262 NE 42nd Cir. Homestead, FL 33033; and via email to cb144@jud11.flcourts.org pursuant to CBL Rule 2.2.

By: /s/ Paul N. Mascia
Paul N. Mascia

Exhibit A

Norma Castellon

From: info @Moecker.com
Sent: Monday, June 13, 2022 9:34 AM
To: Norma Castellon
Subject: FW: Evelyn Fernandez vs. Crystal Cruises
Attachments: Evelyn Fernandez_ Exhibits 34.jpeg; Evelyn Fernandez vs. Crystal Cruises .docx; Evelyn Fernandez_ Proof of Cla 1.jpeg

2486

From: Evelyn Fernández
Sent: Saturday, June 11, 2022 11:41 PM
To: info @Moecker.com <info@moecker.com>
Subject: Evelyn Fernandez vs. Crystal Cruises

IN THE CIRCUIT COURT OF THE 11th JUDICIAL CIRCUIT IN AND FOR MIAMI
DADE COUNTY , FLORIDA

COMPLEX BUSINEE LITIGATION DIVISON

EVELYN FERNANDEZ

Vs

CRYSTAL CRUISES LLC, a California limited liability company

Case No. 2022-002742-CA-01

Leas Case

CRYSTAL HOLDINGS U.S ., LLC a Delaware limited liability company

Case No. 2022-002757- CA-01

CRYSTAL AIR CRUISES , LLC, a Florida limited liability company

Case No. 2022-002758-CA-01

Assignors,

To:

MARK C. HEALY ,

Assignee,

Evelyn Fernandez

As demonstrated above, there are genuine material facts that could define that the former Crystal Cruises was functioning as a possible DRUG CARTEL, having its headquarters at the Bimini Casino – Resorts in the Bahamas, perhaps in command of Lyall Duncan, former V.P Legal and General Counselor, and having Lisa Wilson, Director Treasury Operations to perform operations pertaining of money laundering disguised as joint ventures, strategic partnerships, Brokerage and Investment firms under her closest family members and top management' most immediate family members serving as "figureheads" in Panama, Isle of Man, Malta, Switzerland; therefore, they decided to unfairly fire Evelyn Fernandez to avoid she would continue working as Accounts Payable Clerk since she could be a witness of their trafficking crime and they could not be able to disguise it anymore in the register of the books related to the Operations department in Florida and Land department in California at Crystal Cruises.

Damages to be paid to Evelyn Fernandez under Compensation charges:

Evelyn Fernandez was the victim of failure to promote to Staff Accountant, Senior Accountant, Accounting Manager by Lisa Wilson, Director Treasury Operations, Ricardo Celorio, Controller and V.P of Finance, and John Polimenakos, V.P Information Technology in order to grant those positions to Blanca Pena, Senior Accountant, Crystal Coto, Accounting Manager, Michelle Soules, Accounting Manager with the purpose to disguise operations pertaining to weapons, waste, gold, drug, trafficking and also despite the fact each one of them did not have an academic background and professional records to perform those positions in a worldwide company.

1. Salaries as Senior Accountant from 2017 until 2022 \$80,000 per year * 5 years =	\$ 400, 000.00
2. Breach of Employment Contract	\$ 500,000.00
3. Penuries due to Coronavirus disease (Covid 19) =.	\$ 600.000,00
4. Sexual Harassment and exposed to the HIV+/ AIDS by Lyall Duncan, former V.P Legal and General Counsellor	\$ 3,000.000.00.
1. Working in a criminal organization and been exposed to the weapons, drugs, nuclear, toxic stored in Crystal Cruises' premises	\$ 5, 000.000.00

Plus, the whistleblower rewards under the sec whistleblower reward program. The whistleblower may receive a reward of 10 percent to 30 percent of what the government recovers if the SEC recovers more than \$1 million.

Exhibit B

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 19-CV-22886-LOUIS

EVELYN FERNANDEZ,

Plaintiff,

vs.

CRYSTAL CRUISES, LLC, a foreign
Limited Liability Company

Defendant.

_____ /

FINAL JUDGMENT

Pursuant to Federal Rules of Civil Procedure 56 and 58, and in accordance with the reasons stated in the Court's Order Granting Defendant's Motion for Summary Judgment issued on March 29, 2021, judgment is entered in favor of the Defendant and against Plaintiff.

The Clerk's Office is directed to mail a copy to *pro se* Plaintiff at the address on the docket and to her email address: anaevef@yahoo.com.

This case is now CLOSED. All pending Motions are denied as MOOT.

DONE and **ORDERED** in Miami, Florida this 7th day of April, 2021.



LAUREN LOUIS
UNITED STATES MAGISTRATE JUDGE