UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 26-21914-CIV-MARTINEZ

SABRINA WARBURTON,

Plaintiff,

v.

ONESPA WORLD (BAHAMAS) LIMITED and CARNIVAL CORPORATION,

Defendants.
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OMNIBUS ORDER

THIS CAUSE is before the Court on two Motions: Defendants' Joint Motion to Dismiss and Compel Arbitration [ECF No. 3], filed on March 23, 2026 ("Defendants' Motion" or "Mot. to Dismiss"),[1] and Plaintiff's Motion to Remand [ECF No. 19], filed on April 15, 2026 ("Plaintiff's Motion" or "Mot. to Remand").[2] After careful consideration, Defendants' Motion is **GRANTED**, and Plaintiff's Motion is **DENIED**.

I. FACTUAL BACKGROUND

Plaintiff Sabrina Warburton, a citizen of Jamaica, was employed as a nail technician in the spa department of the Carnival *Vista* when she slipped and fell aboard the vessel on December 26, 2024. (*See* Notice of Removal, Ex. 2, State Court Complaint [ECF No. 1-2] ("Compl.") ¶¶ 9, 13). Just three months earlier, Plaintiff had signed a Contract of Employment with Defendant OneSpa World (Bahamas) Limited. (*See generally* Notice of Removal, Ex. 3, Shipboard Employment Agreement [ECF No. 1-3] (the "Agreement")). Defendant Carnival Corporation was the operator of the *Vista* at all times relevant to this action. (*See* Mot. to Dismiss ¶ 6).

Within the Agreement, Plaintiff agreed to the following arbitration provision:

[1] Plaintiff filed a Response in Opposition [ECF No. 7], to which Defendants filed a Reply [ECF No. 15].
[2] Defendants filed a Response in Opposition [ECF No. 21], to which Plaintiff filed a Reply [ECF No. 25].

> Except as provided in the last two sentences of this Section 16(b), **any and all disputes, claims, or controversies whatsoever, whether in contract, regulatory, tort, or otherwise, including but not limited to, constitutional, statutory, common law, intentional tort and equitable claims, as well as Jones Act and Wage claims for negligence, unseaworthiness, maintenance and Cure, failure to provide prompt, proper and adequate medical care, personal injury, death, or property damage and whether accruing prior to, during or after the expiration of this Agreement (collectively "Disputes"), shall be resolved by final and binding arbitration.** In addition, Employee agrees to arbitrate any and all disputes regarding the existence, validity, termination or enforceability of any term or provision in this Agreement. **Employee agrees that this mandatory arbitration agreement shall be enforceable by, and applicable to, the Company, the Cruise Line, the ship's operator, the ship's owner, and all other entities which may be responsible for damages or compensation to Employee in any way, regardless of whether such entity is a formal party to this Agreement.** In addition, Employee agrees to arbitrate any and all dispute regarding the existence, validity, termination or enforceability of any term or provision in this Agreement. All arbitration proceedings shall be referred to end finally administered and resolved in Nassau, The Bahamas and administered by the American Arbitration Association ("AAA") under its international dispute resolution procedures. Any entity entitled to arbitration under this agreement may initiate arbitration by the appropriate filing with the AAA . . . Employee specifically waives any venue or other objection that Employee may have to any such action or proceedings being brought in the United States District Court for the Southern District of Florida.

(Shipboard Employment Agreement ¶ 16(b) (emphasis added)). By executing the written Agreement, Plaintiff agreed to be bound by its terms and conditions, including submitting to arbitration to resolve any and all disputes. (*See id.*). Plaintiff further agreed to the following term of employment:

> The company hereby employs Employee and Employee hereby accepts employment by the Company on any vessel designated by the Company of which the Shipowner/Doc Holder is, **Carnival Corporation & PLC**, 3655 NW 87th Avenue, Miami, FL, 33178 to the terms and conditions of this Agreement . . . .

(*Id.* ¶ 1(a) (emphasis added)).

Following her December 2024 slip and fall incident, Plaintiff alleges she filed arbitration claims before the American Arbitration Association ("AAA") against each Defendant on November 18, 2025. (*See* Compl. ¶ 23). According to Plaintiff, however, after having served each Defendant with her claims, Defendants failed to respond. (*See id.*).

On February 5, 2026, assuming Defendants had waived any right to submit the matter to arbitration, Plaintiff filed her Complaint against Defendants in state court in the 11th Judicial District in and for Miami-Dade County, asserting claims sounding in negligence, unseaworthiness, and unpaid wages. (*See generally id.*). Shortly thereafter, Defendants removed the action to federal court on the basis that they "seek to compel this matter to arbitration under the Convention on the Recognition and Enforcement of Foreign Arbitral Awards." (Notice of Removal [ECF No. 1] ¶ 1).

Two motions followed. Defendants first filed their Joint Motion to Dismiss and Compel Arbitration [ECF No. 3], arguing the Convention and Eleventh Circuit precedent necessitate enforcement of their arbitration agreement, the enforcement of which neither Defendant waived. (*See generally* Mot. to Dismiss). Contrary to Plaintiff's view, Defendants submit that their purported failure to respond to Plaintiff's arbitration notice was unintentional because (1) Carnival never received Plaintiff's email, and (2) OneSpa never received the attachments to Plaintiff's email. (*See id.* 11 nn.2–3; *id.*, Ex. B, Declaration of Elizabeth Junco [ECF No. 3-2] ("Junco Decl.") ¶¶ 9–11, 15–16, 18; *id.*, Ex. C, Declaration of John Mitchell [ECF No. 3-3] ("Mitchell Decl.") ¶¶ 8–9, 11). And in any event, Defendants argue that "under the totality of the circumstances, Defendants have not acted inconsistently with their right to arbitration." (*Id.* 12). Later, Plaintiff filed a Motion to Remand [ECF No. 19], rehashing her waiver arguments and adding that (1) the Savings to Suitors Clause protects her choice of forum, (2) Defendants' Notice of Removal is procedurally deficient, and (3) Defendant Carnival, as a non-party to the Agreement, cannot compel arbitration. (*See generally* Mot. to Remand). In Plaintiff's view, due to Defendants' waiver, the Court lacks subject-matter jurisdiction over her claims. (*See id.* 15). The Court disagrees.

II. MOTION TO REMAND

The Court begins with the threshold issue of jurisdiction. A civil case filed in state court may be removed by the defendant to federal court if the case originally could have been brought in federal

court. 28 U.S.C. § 1441(a). Federal question jurisdiction exists if the plaintiffs' suit "arises under" the "Constitution, treaties or laws of the United States." 28 U.S.C. § 1331. In general, a case "arises under" federal law if federal law creates the cause of action, or if a substantial disputed issue of federal law is a necessary element of a state law claim. *See Franchise Tax Bd. v. Constr. Laborers Vacation Tr.*, 463 U.S. 1, 9–10, 13 (1983). Where a case has improperly been removed, a district court may remand the case back to state court; in evaluating a motion to remand, the removing party bears the burden of demonstrating federal jurisdiction. *See Pacheco de Perez v. AT&T Co.*, 139 F.3d 1368, 1373 (11th Cir. 1998).

A case covered by the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, *opened for signature* June 10, 1958, 21 U.S.T. 2517, 330 U.N.T.S. 3 (the "Convention"), and its implementing legislation, 9 U.S.C. §§ 202–208 (2002) (the "Convention Act"), confers federal subject matter jurisdiction upon a district court because such a case is "deemed to arise under the laws and treaties of the United States." *Bautista v. Star Cruises*, 396 F.3d 1289, 1294 (11th Cir. 2005); *see also* 9 U.S.C. § 203. The United States is a signatory to the Convention and enforces it through the Federal Arbitration Act, 9 U.S.C. § 1, *et seq*. *See Ruiz v. Carnival Corp.*, 754 F. Supp. 2d 1328, 1330 (S.D. Fla. 2010). To promote the development of a "uniform body of law under the Convention," *Beiser v. Weyler*, 284 F.3d 665, 672 (5th Cir. 2002), "Congress granted the federal courts jurisdiction over Convention cases and added one of the broadest removal provisions, [section] 205, in the statute books," *Acosta v. Master Maint. & Constr. Inc.*, 452 F.3d 373, 377 (5th Cir. 2006) (alteration added; footnote call number omitted). "Where the subject matter of an action or proceeding pending in state court relates to an arbitration agreement or award falling under the Convention, the defendant . . . may, at any time before the trial thereof, remove such action or proceeding to the district court of the United States." 9 U.S.C. § 205 (alteration added). When an arbitration agreement "could conceivably affect the outcome of the plaintiff's case, the agreement

'relates to' the plaintiff's suit." *Beiser*, 284 F.3d at 669; *see also Reid v. Doe Run Res. Corp.*, 701 F.3d 840, 843 (8th Cir. 2012) (same); *Infuturia Global Ltd. v. Sequus Pharm., Inc.*, 631 F.3d 1133, 1138 (9th Cir. 2011) (same).

Defendants removed this case from state court pursuant to 9 U.S.C. § 205. "Section 205 does not require a district court to review the putative arbitration agreement—or investigate the validity of the signatures thereon—before assuming jurisdiction." *Id.*

> Unless there is an affirmative defense that prevents the application of the Convention Act, the Court should compel the parties to arbitrate, provid[ed] the following jurisdictional prerequisites are met: (1) there is an agreement in writing to arbitrate the dispute; (2) the agreement provides for arbitration in the territory of a signatory of the Convention; (3) the agreement arises out of a legal relationship, whether contractual or not, that is considered commercial; and (4) one party to the agreement is not a United States citizen, or the commercial relationship at issue has some reasonable relation with a foreign state.

Thomas v. Carnival Corp., 573 F.3d 1113, 2009 WL 1874098 at *2–3 (11th Cir. July 1, 2009) (citing *Bautista*, 396 F.3d at 1294). Though Plaintiff does not address these four jurisdictional requirements, the Court finds they have been met, and Plaintiff's claims undoubtedly relate to the arbitration agreement because the agreement could conceivably affect the outcome of Plaintiff's instant lawsuit. *See Beiser*, 284 F.3d at 669. Moreover, Defendants have acted consistently with the right to arbitrate. *See* discussion *infra* pp. 7–8. Thus, the Court has jurisdiction to determine the enforceability of the clause. Plaintiff's Motion to Remand is without merit.[3]

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[3] Plaintiff devotes significant portions of her Motion to arguments that ultimately are inapposite. For example, Plaintiff argues that the Savings to Suitors Clause divests the Court of jurisdiction and protects her choice of forum, allowing her to pursue her maritime claims in state court. (*See* Mot. to Remand 6–7). The Court disagrees. While the Savings to Suitors Clause preserves certain remedies and permits maritime claims to be filed in state court, it does not bar the enforcement of arbitration agreements governed by the Convention. Moreover, much of Plaintiff's cited legal authority predates the Convention and is thus inapplicable. The Convention provides an independent basis for removal, regardless of whether Plaintiff originally brought her claims in state court. *Cf. DeRoy v. Carnival Corp.*, 963 F.3d 1302, 1310 (11th Cir. 2020) ("[I]n cases such as the one here, the saving-to-suitors clause does not operate as a get-out-of-federal-court escape . . . .").

Separately, Plaintiff argues Defendants' Notice of Removal is procedurally deficient because (1) it was untimely, and (2) Defendants did not attach copies of documents such as requests for production, a summons, initial disclosures, initial interrogatories, motions for extensions of time, or default motions. (*See* Mot. to

III. MOTION TO DISMISS AND COMPEL ARBITRATION

"In deciding a motion to compel arbitration under the Convention Act, a court conducts 'a very limited inquiry.'" *Hodgson v. Royal Caribbean Cruises, Ltd.*, 706 F. Supp. 2d 1248, 1252 (S.D. Fla. 2010) (quoting *Bautista*, 396 F.3d at 1294). This inquiry requires determining whether the four jurisdictional prerequisites, discussed above, are met. *Id.* (quoting *Bautista*, 396 F.3d at 1294 n.7); *see also* discussion *supra* p. 5. If these jurisdictional prerequisites are met, then the Court must order arbitration "[u]nless there is an affirmative defense that prevents the application of the Convention Act." *Thomas*, 573 F.3d at 1117; *accord Bautista*, 396 F.3d at 1294–95.

Plaintiff does not appear to dispute that the four jurisdictional prerequisites are met; she disputes, rather, whether an affirmative defense prevents application of the Convention Act. "A court is not required to compel arbitration based on an agreement . . . if 'it finds that the said agreement is null and void, inoperative or incapable of being performed.'" *Hodgson*, 706 F. Supp. 2d at 1256 (quoting Convention art. II(3)). "The null-and-void clause encompasses 'only those situations — such as fraud, mistake, duress, and waiver — that can be applied neutrally on an international scale.'" *Id.* (quoting *Bautista*, 396 F.3d at 1302). The null-and-void clause, moreover, "must be read narrowly, for the signatory nations have jointly declared a general policy of enforceability of agreements to

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Remand 7–8). Indeed, 28 U.S.C. § 1446(a) requires that a notice of removal shall include "a copy of all process, pleadings, and orders served upon [the removing] defendant or defendants." The statute does not require copies of motions, however, *see id.*, and Defendants did supply the Court with copies of the relevant pleadings and orders from the state action. And in any event, contrary to Plaintiff's contention, "the failure to include all state court pleadings and process with the notice of removal is procedurally incorrect but is not a jurisdictional defect." *Cook v. Randolph County, Ga.*, 573 F.3d 1143, 1150 (11th Cir. 2009) (citing *Covington v. Indemnity Ins. Co. of N. Am.*, 251 F.2d 930, 933 (5th Cir. 1958)). As for the timeliness of the removal, the Convention Act permits a defendant to remove a case at any time before trial. *See Acosta v. Norwegian Cruise Line, Ltd.*, 303 F. Supp. 2d 1327, 1329, n.2 (S.D. Fla. 2003) ("Plaintiff also argues that Defendant's removal of this case was untimely, but 9 U.S.C. § 205 permits a Defendant to remove a case pursuant to the Convention at any time before trial."); *Sheinberg v. Princess Cruise Lines, Ltd.*, 269 F. Supp. 2d 1349, 1352 (S.D. Fla. 2003) ("[G]iven the plain language of 9 U.S.C. § 205 regarding removal at any time before trial, the thirty day time limit does not apply to removal under the Convention.").

arbitrate." *Id.* (quoting *Rhone Mediterranee Compagnia Francese di Assicurazioni e Riassicurazioni v. Lauro*, 712 F.2d 50, 53 (3d Cir. 1983) (internal quotation marks omitted)).

Central to resolving the instant Motions is the question of whether, as Plaintiff claims, Defendants waived their right to arbitrate.[4] Indeed, as with other contractual rights, "[t]he right to arbitrate can be waived." *Benoay v. Prudential-Bache Sec., Inc.*, 805 F.2d 1437, 1440 (11th Cir. 1986). A party waives the right to arbitrate when it participates in litigation "to a point inconsistent with an intent to arbitrate" such that the other side is prejudiced. *Morewitz v. West of England Ship Owners Mut. Prot. & Indem. Ass'n*, 62 F.3d 1356, 1366 (11th Cir. 1995). "Waiver is not to be lightly inferred, and mere delay in seeking [arbitration] without some resultant prejudice to a party cannot carry the day." *Pershing LLC v. Curi*, No. 12-62449-CIV, 2013 WL 785990, at *2 (S.D. Fla. Mar. 1, 2013) (internal quotation marks and citation omitted; alteration in original).

Defendants do not appear to have unduly delayed in seeking to enforce their rights to arbitration, nor have they acted inconsistently with the right to arbitrate. Rather, at the first chance to respond to this litigation, Defendants moved to compel arbitration. (*See generally* Mot. to Dismiss); *cf. In re J.E.L. Site Dev., Inc.*, 646 B.R. 338, 345 (Bankr. M.D. Fla. 2022) ("Park Square has not substantially invoked the litigation machinery . . . . It immediately raised its right to arbitration in its first responsive pleading . . . . Further, the proceeding is still at the pleading stage and the parties have

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[4] The Court collectively references both Defendants. Though Plaintiff argues Defendant Carnival has no right to compel arbitration as a non-signatory to the Agreement, this argument is undermined by Plaintiff's own conduct in having attempted to initiate arbitration with Defendant Carnival. And in any event, Plaintiff's contention that the Agreement omits any mention of Carnival fails to persuade. The Agreement specifically provides: "Employee agrees that this mandatory arbitration agreement **shall be enforceable by, and applicable to, the Company, the Cruise Line, the ship's operator, the ship's owner**, and all other entities which may be responsible for damages or compensation to the Employee in any way, regardless of whether such entity is a formal party to this Agreement." (Shipboard Employment Agreement ¶ 16(b) (emphasis added)). Plaintiff further "accept[ed] employment by the Company on any vessel designated by the Company of which the Shipowner/Doc Holder is, Carnival Corporation & PLC . . . ." (*Id.* ¶ 1(a)). The undisputed text of these provisions, which references Carnival Corporation by name, is so clear and unambiguous that the Court dismisses Plaintiff's argument without additional discussion. *Cf. Amat v. Rey Pizza Corp.*, 204 F. Supp. 3d 1359, 1364–65 (S.D. Fla. 2016) ("The Eleventh Circuit recognizes that non-signatories can be bound to arbitrate under several theories arising from the common law principles of contract and agency law.").

not engaged in discovery. The Court finds the Trustee has failed to demonstrate Park Square has actively litigated the dispute or unduly delayed requesting arbitration. Accordingly, the Court finds no waiver." (alterations added)).

Additionally, Defendants never stated an unwillingness to comply with the rules required for arbitration, and the record does not establish that Defendants ever received and reviewed Plaintiff's emails, filing confirmations, and attachments. In any event, Defendants declare that they did not. (*See* Junco Decl. ¶¶ 9–11, 15–16, 18; Mitchell Decl. ¶¶ 8–9, 11). Thus, the Court, as it must, resolves all doubts in favor of arbitration. *See Moses H. Cone Mem'l Hosp. v. Mercury Const. Corp.*, 460 U.S. 1, 24–25 (1983) ("[A]s a matter of federal law, any doubts concerning the scope of arbitrable issues should be resolved in favor of arbitration, whether the problem at hand is the construction of the contract language itself or an allegation of waiver, delay, or a like defense to arbitrability.").

IV. CONCLUSION

Accordingly, it is **ORDERED and ADJUDGED** that:

1. Plaintiff's Motion to Remand **[ECF No. 19]** is **DENIED**.
2. Defendants' Motion to Dismiss and Compel Arbitration **[ECF No. 3]** is **GRANTED**. All counts in the Complaint **[ECF No. 1-2]** are referred to arbitration in accordance with Paragraph 16(b) of the Shipboard Employment Agreement. Once an award is entered, the parties shall notify this Court **within thirty (30) days**.
3. This case is **STAYED** to allow the parties to arbitrate Plaintiff's claims. The Clerk is **DIRECTED** to administratively **CLOSE** this case. Defendants' Motion to Stay **[ECF No. 16]** and any other pending motions are **DENIED as MOOT**.

DONE AND ORDERED in Miami, Florida, this 27 day of May 2026.

JOSE E. MARTINEZ
UNITED STATES DISTRICT JUDGE

cc: all counsel of record