

Lobo v. Celebrity Cruises, Inc. United States Court of Appeals, Eleventh Circuit 488 F.3d 891 (Decided June 7, 2007)

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CONVENTION ON RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS GOVERNS RIGHT OF SEAMEN TO BRING SUIT ON A CLAIM FOR UNPAID WAGES IN FEDERAL COURT WHERE SUCH A CLAIM WAS SUBJECT TO MANDATORY ARBITRATION PURSUANT TO EMPLOYMENT CONTRACT.

The United States Court of Appeals for the Eleventh Circuit affirmed the district court's holding that the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards precludes the Seaman's Wage Act, which allows seamen to bring suit for unpaid wages in federal court. The Court of Appeals held that disputes concerning unpaid wages must be brought to arbitration as agreed upon in the collective bargaining agreement made between Celebrity Cruises and its employees.

Lobo v. Celebrity Cruises, Inc.
United States Court of Appeals, Eleventh Circuit
488 F.3d 891
(Decided June 7, 2007)

Lobo, a stateroom attendant for Celebrity Cruises, Inc. ("Celebrity"), was assigned the task of cleaning each passenger cabin aboard his ship. He was given an assistant and, as per Celebrity's policies, was obligated to share any gratuities with his assistant at a rate of \$1.20 per passenger per day.

Lobo sued Celebrity in the United States District Court for the Southern District of Florida, claiming the wage sharing requirement was enforced through duress, and was the result of unequal bargaining power between the parties. Lobo claimed that the requirement constituted a failure to pay wages and violated the collective bargaining agreement governing his employment, which provided that passenger gratuities were included as part of a stateroom attendant's pay.

Celebrity contended that, pursuant to the same agreement, the matter must be sent to arbitration and moved to dismiss the suit. Celebrity cited Article 26 of the collective bargaining agreement which stated that all disputes which might arise between the parties must be sent to arbitration.

Lobo demanded an opportunity to be heard in federal court and cited the Seaman's Wage Act, which gives seamen the right to access the federal courts in order to resolve wage disputes,¹ and the Supreme Court's decision in *U.S. Bulk Carriers, Inc. v. Arguelles*.² The *Arguelles* court ruled that, despite the enactment of the Labor Management Relations Act ("LMRA"), which provides a federal remedy to enforce arbitration provisions of collective bargaining agreements in commercial settings, the Seaman's Wage Act still governed a seaman's right to sue in federal court.

The district court held that neither the Seaman's Wage Act nor *Arguelles* applied to Lobo's claim since the Convention on the Recognition and Enforcement of Foreign Arbitral Awards ("The Convention") and the legislation implementing the Convention³ was enacted subsequent to *Arguelles*. The Convention, Article II (1), states that each state shall recognize written agreements where parties agree to submit to arbitration all legal matters of dispute, which are a subject matter capable of arbitration. The district court thus dismissed the case and sent it to arbitration.

Lobo appealed the district court's ruling to the United States Court of Appeals for the Eleventh Circuit, arguing that, despite the Convention, *Arguelles* still allowed seaman to bring claims for unpaid wages in federal court.

¹ 46 U.S.C. §10313 (f) (stating that a master shall pay each seaman his wages within twenty four hours of the cargo being discharged, or within four days of seaman's discharge).

² 400 U.S. 351 (1971).

³ 9 U.S.C. §§ 202-208.

The Court of Appeals sought to determine whether the Seaman's Wage Act superseded the agreement to arbitrate, thus making the Convention's findings unusable. The Court of Appeals held that Lobo's reliance on *Arguelles* was misplaced. The *Arguelles* court made no reference to the Convention, but ruled that the LMRA did not apply to the right of the individual seamen to bring claims in federal court. The Court of Appeals further held that *Arguelles* was briefed and argued prior to the implementation of the Convention, thus precluding application of the *Arguelles* decision in matters concerning the Convention.

The Court of Appeals also focused on the fact that the decision in *Arguelles* was based on the fact that the LMRA was silent on the issue of seaman bringing claims of unpaid wages, and accordingly was reluctant to deny what Congress clearly intended. The Convention, however, explicitly stated that it recognized an agreement between parties to submit all differences with respect to a legal relationship to arbitration. Since the Convention explicitly compelled federal courts to submit cases to arbitration, the Court of Appeals would be forced to adhere to the will of Congress. The intent of the Convention, the promotion of arbitration clauses contained in international contracts, prevailed. For the stated reasons the United States Court of Appeals for the Eleventh Circuit affirmed the District Court's dismissal of the case in favor of arbitration.

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