UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 17-cv-21663-WILLIAMS

ROYAL CARIBBEAN CRUISES, LTD.

Petitioner,

vs.

LANCE SOSKIN,

Respondent.
_____/

Case No. 17-cv-21679-WILLIAMS

LANCE SOSKIN,

Petitioner,

vs.

ROYAL CARIBBEAN CRUISES, LTD.,

Respondent.
_____/

OMNIBUS ORDER

THIS MATTER is before the Court on several pending motions in two cases, *Royal Caribbean Cruises, Ltd. v. Soskin*, Case No. 17-cv-21663 (the "Enforcement Action") and *Soskin v. Royal Caribbean Cruises, Ltd.*, Case No. 17-cv-21679 (the "Vacatur Action").

I. BACKGROUND

Lance Soskin—who is proceeding *pro se*—initiated arbitral proceedings against Royal Caribbean Cruises, Ltd. ("RCL") after his employer terminated him during an RCL cruise the employer had sponsored. (*See* Award, Case No. 17-cv-21663 DE 1-3 at 3).

After hearing testimony from six witnesses, the arbitrator entered an Award in favor of RCL and against Soskin on Soskin's claim under Florida law for tortious interference with employment relationship. (Case No. 17-cv-21663 DE 1-3). Pursuant to that decision, the arbitrator later issued an order awarding RCL $23,466.44 in fees and costs (Case No. 17-cv-21663 DE 1-6) and subsequently entered Final Judgment for RCL and against Soskin (Case No. 17-cv-21663 DE 1-7).

On April 6, 2017, Soskin filed the Vacatur Action, a motion to vacate the arbitration award, in the Eleventh Judicial Circuit in and for Miami-Dade County. (Case No. 17-cv-21679 DE 1-2). On May 4, 2017, RCL filed the Enforcement Action, a motion to enforce the same arbitration award, in this Court. (Case No. 17-cv-21663 DE 1). The next day, RCL removed the Vacatur Action to this District. (Case No. 17-cv-21679 DE 1). This Court accepted transfer of the Vacatur Action on May 16, 2017. (Case No. 17-cv-21679, DE 11).

II. DISCUSSION

Aside from the Parties' substantive motions to enforce and vacate the arbitral award, there are eleven motions pending before the Court:

- RCL's motion to consolidate the Enforcement Action and Vacatur Action (Case No. 17-cv-21663 DE 4) and Soskin's responsive motion to stay the Enforcement Action pending resolution of the Vacatur Action (Case No. 17-cv-21663 DE 12)

- Soskin's three motions to file case documents electronically (Case No. 17-cv-21663 DE 5; Case No. 17-cv-21663 DE 10; Case No. 17-cv-21679 DE 6)

- RCL's motion for enlargement of time to respond in the Vacatur Action (Case No. 17-cv-21679 DE 5) and Soskin's motion to enlargement of time to respond in the Enforcement Action—filed in the same pleading as his motion to stay the Enforcement Action (Case No. 17-cv-21663 DE 12)

- Soskin's motion for leave to file excess pages in his response to RCL's motion to enforce arbitral award (Case No. 17-cv-21663 DE 13)
- Soskin's motions to submit excerpts of recording of arbitration hearing and corresponding transcripts (Case No. 17-cv-21663 DE 14; Case No. 17-cv-21679 DE 13)
- RCL's motion to order Soskin to post pre-judgment bond (Case No. 17-cv-21663 DE 16)
- RCL's motion for sanctions (Case No. 17-cv-21663 DE 18)

The Court discusses these motions in turn below.

A. RCL's motion to consolidate and Soskin's motion to stay

RCL first requests that the Court consolidate the Enforcement Action and Vacatur Action because the two cases seek, respectively, to enforce and to vacate the same arbitral award. (Case No. 17-cv-21663 DE 4 ¶ 4). According to RCL, the two cases "seek opposite relief regarding the same award and, if the cases are not treated together, the parties would face the risk of inconsistent judgments." (Case No. 17-cv-21663, DE 4 ¶ 4).

The Court has authority to order consolidation, as "Federal Rule of Civil Procedure 42(a) codifies a district court's 'inherent managerial power to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.'" *Young v. City of Augusta, Ga. Through DeVaney*, 59 F.3d 1160, 1168 (11th Cir. 1995) (quoting *Hendrix v. Raybestos–Manhattan, Inc.*, 776 F.2d 1492, 1495 (11th Cir. 1985)). Rule 42(a) provides:

> When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

Fed. R. Civ. P. 42(a). "The Rule 'is permissive and vests a purely discretionary power in the district court.'" *Young*, 59 F.3d at 1168 (quoting *In re Air Crash Disaster at Florida Everglades,* 549 F.2d 1006, 1013 (5th Cir.1977)). Here, the Court finds consolidation of the Enforcement Action and Vacatur Action wholly appropriate given the possibility of inconsistent judgments. Consequently, the Court grants the motion to consolidate, but will still consider any appropriate motion to remand the Vacatur Action to state court.[1]

In response to RCL's motion to consolidate, Soskin moves to stay the Enforcement Action pending the outcome of the Vacatur Action. (Case No. 17-cv-21663 DE 12). Soskin contends that the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the "New York Convention"), codified through the Federal Arbitration Act ("FAA"), 9 U.S.C. §§ 201-208, prioritizes resolution of motions to vacate arbitration awards over motions to enforce the same awards. But, as Soskin acknowledges, the cases he cites do not directly support this argument. (*See* Case No. 17-cv-21663 DE 12 ¶ 17). Instead, his cases provide that courts in the United States exercise caution when reviewing New York Convention suits related to foreign arbitral awards, particularly where appropriate foreign courts have already considered or are considering similar suits. *See, e.g.*, *Gulf Petro Trading Co., Inc. v. Nigerian Nat.*

[1] In his motion to stay, Soskin gave "conditional consent to consolidate . . . on condition that I will maintain my right to have the Court consider a Motion to Remand to State Court my Motion to Vacate the Arbitration Award and stay proceedings for RCL's Motion to Enforce, pending the outcome of the vacatur proceeding in State Court." (Case No. 17-cv-21663 DE 12 ¶ 7). Although 28 U.S.C. § 1446(b) provides that any motion for remand of the Vacatur Action is due June 5, 2017, the Court will consider any motion for remand filed by June 9, 2017.

Petroleum Corp., 512 F.3d 742, 746 (5th Cir. 2008) (affirming district court's dismissal of a motion to vacate Swiss arbitral award for lack of subject matter jurisdiction where a Swiss court had already upheld award); *InterDigital Commc'ns, Inc. v. Huawei Inv. & Holding Co.*, 166 F. Supp. 3d 463, 470 (S.D.N.Y. 2016) (staying enforcement action pending outcome of proceeding in France to annul an arbitral award rendered in Paris); *Spier v. Calzaturificio Tecnica S.p.A.*, 663 F. Supp. 871, 876 (S.D.N.Y. 1987) (staying enforcement action pending outcome of proceeding in Italy to annual an arbitral award rendered in Italy). They do not justify Soskin's substantially broader proposition—that district courts should generally stay actions to enforce arbitral awards rendered in the United States, pursuant to United States law, pending resolution of separate actions to vacate those same awards. Accordingly, the Court denies Soskin's motion to stay.

B. Soskin's motions to file case documents electronically

Through two motions in the Enforcement Action and another motion in the Vacatur Action, Soskin asks to file case documents electronically through CM/ECF. He makes this request because he "suspects he will be forced to spend an inordinate amount of money on courier charges, which will be a financial hardship for him." (Case No. 17-cv-21663 DE 5 at 1; Case No. 17-cv-21663 DE 10 at 1; Case No. 17-cv-21679 DE 6 at 1). But the Court's CM/ECF Administrative Procedures specifically provide:

> Pro se litigants will **not** be permitted to register as Users at this time. Pro se litigants must file their documents in the conventional manner. Pro se litigants may access the electronic record at the public counter in the Clerk's Office in all divisions or through PACER. Pro se litigants will be served and noticed by U.S. mail or in person (or, if agreed, by facsimile or email).

Section 2C, CM/ECF Administrative Procedures, Southern District of Florida (emphasis in original).[2] Thus, the Court denies Soskin's requests to file case documents electronically. Nevertheless, the Clerk shall continue providing Soskin notices of electronic filing at petitionerlance@gmail.com.

C. Motions for enlargement of time

Soskin requests an extension of time to respond in the Enforcement Action (Case No. 17-cv-21663 DE 12) and RCL requests an extension of time to respond in the Vacatur Action (Case No. 17-cv-21679 DE 5). Both Parties, however, have already submitted the responses that are the subject of their requests for extension. (Case No. 17-cv-21663 DE 13-1; Case No. 17-cv-21663 DE 17). Accordingly, the Court denies both Parties' motions for extensions of time as moot.

D. Soskin's motion for leave to file excess pages

Attaching his 33-page response to RCL's motion to enforce arbitral award (along with 170 pages of exhibits), Soskin requests leave to file the 13 pages in excess of the limit imposed by the Local Rules. (Case No. 17-cv-21663 DE 13). The Court grants Soskin's motion and will consider the excess pages of Soskin's response, but Soskin must separately files his response to the docket as described in Section III below.

E. Soskin's motions to submit excerpts of recording

Next, Soskin moves the Court to permit him to submit excerpts of the audio recordings of the arbitration hearing at issue in this case. (Case No. 17-cv-21663 DE 14; Case No. 17-cv-21679 DE 13). Soskin's motion, however, provides no explanation for why these audio recordings are not cumulative of transcript excerpts already in the

[2] Available at: http://www.flsd.uscourts.gov/?page_id=54

record. Accordingly, the Court denies Soskin's motion to file audio recording excerpts, but reserves the option to reconsider this ruling should circumstances warrant.

Separately in the same motion, Soskin asks the Court to order discovery. He describes an exchange in which RCL's counsel asked him for the audio recordings of the entire arbitration proceeding—of which he is apparently in sole possession. (Case No. 17-cv-21663 DE 14 ¶ 5; Case No. 17-cv-21679 DE 13 ¶ 5). In response to this request, Soskin relates that he tried to negotiate for "discovery material which [RCL's counsel] have refused to provide." (Case No. 17-cv-21663 DE 14 ¶ 5; Case No. 17-cv-21679 DE 13 ¶ 5). Soskin now asks the Court to order provision of this discovery material, which he claims "is relevant to establishing a pattern of behavior" by the arbitrator that would support his motion to vacate. (Case No. 17-cv-21663 DE 14 ¶ 6; Case No. 17-cv-21679 DE 13 ¶ 6). But Soskin's request for discovery relies on premature characterizations of the insufficiency of RCL's motion to enforce the arbitration award and the sufficiency of Soskin's motion to vacate the same award. (Case No. 17-cv-21663 DE 14 ¶¶ 7-8; Case No. 17-cv-21679 DE 14 ¶¶ 7-8). Accordingly, the Court denies the motion to the extent that it requests discovery before the substantive issues in this litigation have been fully briefed.

F. RCL's motion to order Soskin to post pre-judgment bond

RCL moves the Court to require Soskin to post a pre-judgment bond in the amount of the arbitration award, plus costs and interest. (Case No. 17-cv-21663 DE 16). The Court refers this motion to United States Magistrate Judge Edwin G. Torres for a report and recommendation.

G. RCL's motion for sanctions

Finally, RCL asks the Court to impose sanctions on Soskin for pursuing the Vacatur Action. (Case No. 17-cv-21663 DE 18). RCL bases this motion on a passage from an Eleventh Circuit case:

> Courts cannot prevent parties from trying to convert arbitration losses into court victories, but it may be that we can and should insist that if a party on the short end of an arbitration award attacks that award in court without any real legal basis for doing so, that party should pay sanctions. A realistic threat of sanctions may discourage baseless litigation over arbitration awards and help fulfill the purposes of the pro-arbitration policy contained in the FAA. It is an idea worth considering.

B.L. Harbert Int'l, LLC v. Hercules Steel Co., 441 F.3d 905, 913–14 (11th Cir. 2006). At this point in the litigation—before there has been any determination that Soskin's motion to vacate was without "any real legal basis," an award of sanctions would be premature. Accordingly, the Court denies the motion without prejudice for RCL to renew the motion after the Court has decided the merits of this case.

III. CONCLUSION

For the foregoing reasons, it is **ORDERED AND ADJUDGED** as follows:

1. Soskin shall file any motion to remand the Vacatur Action to the docket in Case No. 17-cv-21679 by **June 9, 2017**. RCL shall file any response to such motion to the same docket by **June 12, 2017**. Soskin shall file any reply in support of such motion to the same docket by **June 15, 2017**.

2. RCL's motion to consolidate (Case No. 17-cv-21663 DE 4) is **GRANTED**. Accordingly, except for the pleadings specified in Paragraph 1 above, all future pleadings shall be filed only to the docket in Case No. 17-cv-21663. The Parties shall

specify, in the titles of all pleadings, the specific action—either the Enforcement Action or the Vacatur Action—to which that pleading pertains.

3. Soskin's motion to stay the Enforcement Action pending resolution of the Vacatur Action (Case No. 17-cv-21663 DE 12) is **DENIED**.

4. Soskin's motions to file case documents electronically (Case No. 17-cv-21663 DE 5; Case No. 17-cv-21663 DE 10; Case No. 17-cv-21679 DE 6) are **DENIED**.

5. RCL's motion for enlargement of time to respond in the Vacatur Action (Case No. 17-cv-21679 DE 5) and Soskin's motion to enlargement of time to respond in the Enforcement Action (Case No. 17-cv-21663 DE 12) are **DENIED AS MOOT**.

6. Soskin's motion for leave to file excess pages in his response to RCL's petition and motion enforce arbitral award (Case No. 17-cv-21663 DE 13) is **GRANTED**. Soskin's response to RCL's motion to enforce arbitral award may include 13 additional pages, but Soskin shall file his response to the docket no later than **June 9, 2017** and shall request that the Clerk upload any exhibits as separate attachments to the response.

7. Soskin's motions to submit excerpts of recording of arbitration hearing and corresponding transcripts (Case No. 17-cv-21663 DE 14; Case No. 17-cv-21679 DE 13) are **DENIED**.

8. Pursuant to 28 U.S.C. § 636 and the Magistrate Rules of the Local Rules for the Southern District of Florida, RCL's motion to order [Soskin] to post pre-judgment bond (Case No. 17-cv-21663 DE 16) is **REFERRED** to United States Magistrate Judge Edwin G. Torres for a report and recommendation.

9. RCL's motion for sanctions (Case No. 17-cv-21663 DE 18) is **DENIED** without prejudice to renew after the Court rules on Soskin's motion to vacate.

10. By **June 9, 2017**, RCL—as the removing party—shall file a Notice that includes copies of all records and proceedings in the state court case underlying the Vacatur Action. The Notice shall include an index of the records and proceedings, which shall be ordered chronologically. Each record and proceeding shall be uploaded as a separate attachment to the Notice.

DONE AND ORDERED in chambers in Miami, Florida, this 2nd day of June, 2017.

KATHLEEN M. WILLIAMS
UNITED STATES DISTRICT JUDGE

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