

Third District Court of Appeal

State of Florida, July Term, A.D. 2009

Opinion filed November 25, 2009.
Not final until disposition of timely filed motion for rehearing.

No. 3D07-1009
Lower Tribunal No. 06-15055

Laurine Spivey-Ferguson,
Appellant,

vs.

**Carnival Corporation, a/k/a Carnival Cruise Lines, Inc., a/k/a,
Carnival Tours,**
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Margarita Esquiroz, Judge.

Rodrick F. Coleman, for appellant.

Mase & Lara and Curtis Mase and Rachel S. Cohen, for appellee.

ON MOTION FOR REHEARING AND CERTIFICATION

Before RAMIREZ, C.J., AND GERSTEN AND CORTIÑAS, JJ.

PER CURIAM

We deny rehearing based on the court's en banc opinion in Leslie v. Carnival Corporation, No. 3D06-2228 (Fla. 3d DCA Nov. 25, 2009). However, pursuant to Florida Rule of Appellate Procedure 9.030(a)(2)(A)(v), we grant the motion for certification and certify to the Supreme Court of Florida the following as a question of great public importance:

IS CARNIVAL'S FORUM SELECTION ENFORCEABLE IN CIRCUMSTANCES WHERE, BECAUSE OF THE JURISDICTIONAL LIMITATIONS OF FEDERAL COURTS, THE CLAUSE OPERATES TO DENY CERTAIN PLAINTIFFS, INCLUDING ALL FLORIDA CITIZENS, A RIGHT TO A JURY TRIAL IN FLORIDA WITHOUT NOTICE AND WITHOUT CONSENT TO WAIVING THIS RIGHT AS GUARANTEED UNDER ARTICLE 1, SECTION 22 OF THE FLORIDA CONSTITUTION?

RAMIREZ, C.J., and CORTIÑAS, J., concur.

Laurine Spivey-Ferguson v. Carnival Corporation, etc.
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GERSTEN, J. (concurring in part and dissenting in part).

I concur in the denial of rehearing based upon the Court's en banc opinion in Leslie v. Carnival Corporation, No. 3D06-2228 (Fla. 3d DCA Nov. 25, 2009); however, I respectfully dissent on granting certification to the Florida Supreme Court for the following reasons. First, Leslie clearly sets forth that basic contract law governs this matter. Additionally, I do not believe that this case presents a question of great public importance necessitating certification to our supreme court. Therefore, I respectfully concur in the denial of rehearing and dissent from the grant of certification.