

Rev. 4/18

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT
CIVIL APPEAL STATEMENT

Please TYPE. Attach additional pages if necessary.

11th Circuit Docket Number: 21-12729

Caption: Norwegian Cruise Line Holdings Ltd., et al. v. State Surgeon General	District and Division: <u>Southern District of Florida, Miami Division</u> Name of Judge: <u>Honorable Kathleen M. Williams</u> Nature of Suit: <u>3950 Constitutionality of State Statutes</u> <hr/> Date Complaint Filed: <u>07/13/2021</u> District Court Docket Number: <u>1:21-cv-22492-KMW</u> <hr/> Date Notice of Appeal Filed: <u>08/10/2021</u> <input type="checkbox"/> Cross Appeal <input type="checkbox"/> Class Action <hr/> Has this matter previously been before this court? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, provide (a) Caption: _____ (b) Citation: _____ (c) Docket Number: _____
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	Attorney Name	Mailing Address	Telephone, Fax, Email
For Appellant:	Please see attached.		
<input type="checkbox"/> Plaintiff			
<input checked="" type="checkbox"/> Defendant			
<input type="checkbox"/> Other (Specify)			

For Appellee:	Please see attached.
<input checked="" type="checkbox"/> Plaintiff	
<input type="checkbox"/> Defendant	
<input type="checkbox"/> Other (Specify)	

Please CIRCLE/CHECK/COMPLETE the items below and on page 2 that apply.

Jurisdiction	Nature of Judgment	Type of Order	Relief
<input checked="" type="checkbox"/> Federal Question	<input type="checkbox"/> Final Judgment, 28 USC 1291	<input type="checkbox"/> Dismissal/Jurisdiction	Amount Sought by Plaintiff: \$ <u>0</u>
<input type="checkbox"/> Diversity	<input checked="" type="checkbox"/> Interlocutory Order, 28 USC 1292(a)(1)	<input type="checkbox"/> Default Judgment	Amount Sought by Defendant: \$ <u>0</u>
<input type="checkbox"/> US Plaintiff	<input type="checkbox"/> Interlocutory Order Certified, 28 USC 1292(b)	<input type="checkbox"/> Summary Judgment	Awarded: \$ _____ to _____
<input type="checkbox"/> US Defendant	<input type="checkbox"/> Interlocutory Order, Qualified Immunity	<input type="checkbox"/> Judgment/Bench Trial	Injunctions:
	<input type="checkbox"/> Interlocutory Order, Final Agency Action (Review)	<input type="checkbox"/> Judgment/Jury Verdict	<input type="checkbox"/> TRO
	<input type="checkbox"/> 54(b)	<input type="checkbox"/> Judgment/Directed Verdict/NOV	<input checked="" type="checkbox"/> Preliminary <input checked="" type="checkbox"/> Granted
		<input checked="" type="checkbox"/> Injunction	<input type="checkbox"/> Permanent <input type="checkbox"/> Denied
		<input type="checkbox"/> Other _____	

Based on your present knowledge:

- (1) Does this appeal involve a question of First Impression? Yes No
 What is the issue you claim is one of First Impression? Whether a business has a constitutional right to compel documentation of medical information as a condition for service

- (2) Will the determination of this appeal turn on the interpretation or application of a particular case or statute? Yes No

If Yes, provide

- (a) Case Name/Statute Wollschlaeger v. Governor; Florida Statute § 381.00316
 (b) Citation 848 F.3d 1293 (11th Cir. 2017) (en banc)
 (c) Docket Number if unreported _____

- (3) Is there any case now pending or about to be brought before this court or any other court or administrative agency that
 (a) Arises from substantially the same case or controversy as this appeal? Yes No
 (b) Involves an issue that is substantially the same, similar, or related to an issue in this appeal? Yes No

If Yes, provide

- (a) Case Name State of Florida v. Secretary, Department of Health and Human Services, et al
 (b) Citation _____
 (c) Docket Number if unreported 21-12243
 (d) Court or Agency Eleventh Circuit Court of Appeals

- (4) Will this appeal involve a conflict of law
 (a) Within the Eleventh Circuit? Yes No
 (b) Among circuits? Yes No

If Yes, explain briefly:

The decision below conflicts with *Greater Philadelphia Chamber of Commerce v. City of Philadelphia*, 949 F.3d 116 (3d Cir. 2020), which held that a provision barring businesses from relying on wage history information in setting wages did not implicate the First Amendment.

- (5) Issues proposed to be raised on appeal, including jurisdictional challenges:

This interlocutory appeal from the district court's granting of plaintiffs' motion for preliminary injunction raises numerous issues, including: whether and to what extent the First Amendment applies to the conduct regulated by the state of Florida under the state law challenged in this case; if the First Amendment applies, what level of scrutiny should the court apply to evaluate the challenged provision in this case; under the relevant level of scrutiny, is the challenged provision a permissible regulation; whether the challenged provision is a permissible regulation under the dormant Commerce Clause; and to what extent was the district court's order granting plaintiffs' motion an otherwise proper use of its equitable power.

I CERTIFY THAT I SERVED THIS CIVIL APPEAL STATEMENT ON THE CLERK OF THE U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT AND SERVED A COPY ON EACH PARTY OR THEIR COUNSEL OF RECORD, THIS SIXTEENTH DAY OF August, 2021.

Charles J. Cooper

/s/ Charles J. Cooper

NAME OF COUNSEL (Print)

SIGNATURE OF COUNSEL

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